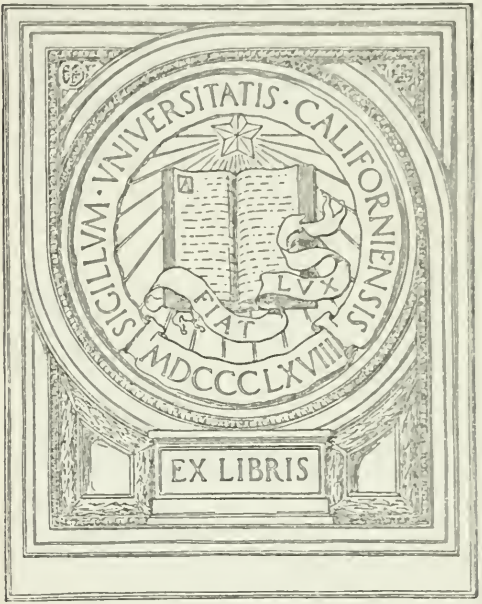
UNIVERSITY OF CALIFORNIA
AT LOS ANGELES



THE GIFT OF
MAY TREAT MORRISON
IN MEMORY OF
ALEXANDER F MORRISON

ESSAYS

ON

PROPERTY AND LABOUR

AS CONNECTED WITH

NATURAL LAW AND THE CONSTITUTION

OF SOCIETY.

BY FRANCIS LIEBER.

NEW YORK:
HARPER & BROTHERS, PUBLISHERS.
1856.

Entered, according to Act of Congress, in the year 1841 by
HARPER & BROTHERS,
In the Clerk's Office of the Southern District of New-York.

HB
701
L62e

INTRODUCTION.

BY REV. A. POTTER, D.D.

GIFT OF MRS. A. F. MORRISON MAR 27 '43

Having been requested by the author and his publishers to introduce this volume with a few prefatory remarks, I take pleasure in complying with the request, but without any hope that I shall be able to add either to the interest or the utility of *Essays* proceeding from one so well known and so justly distinguished as Mr. Lieber.

Studious men, who are accustomed to investigate the nature and foundation of our rights, are well aware that the theory of property, as unfolded by some of the greatest writers of modern times, is incomplete. By some, as Hobbes, for instance, property is represented as a gift or grant from the government, and as held, therefore, subject, of right and without reserve, to its disposal. Grotius and Puffendorf supposed that they

403018

had discovered the origin of the right to property in a prior occupancy; while Locke, Barbeyrac, and Stewart ascribe it to labour. Paley, who, with his usual sagacity and practical wisdom, was able to detect the insufficiency of each of these theories to account for all the facts, undertook to gather from them the materials for a new and more comprehensive system. His success was not complete. Some of his doctrines are unsatisfactory, and his views—especially in regard to property in land, and the right of transmitting estates by will—are liable to serious abuse.

In treating of the origin of property, writers have not always distinguished between its actual and its jural origin; between the manner in which it was acquired in fact, and the manner in which it might be acquired rightfully. They have laid great stress, too, upon imaginary compacts in the infancy of society, or upon the formal action of governments. The foundation which has been laid for property in the very nature of man and of human society—its intimate connex-

ion with the progress of civilization, and with the development, not only of industry, but of some of our noblest and most refined sentiments, all this has been in a great measure overlooked. Instead of interrogating consciousness, and finding there in our primitive feelings and wants its true origin, philosophers have endeavoured to deduce this right from some single axiom of natural law, overlooking the diversity and complication of circumstances with which it entwines itself, and which become, in the course of time, part of its very substance. They have supposed it necessary, too, to go back to a period when everything was held in common, and when this institution was formally voted into existence, by the joint suffrages of all, or by the authoritative decree of the few; not remembering that these are periods, of which there is no trace in the early history of our race, nor any example in its present state. To expose these errors, and to demonstrate the connexion of property with the earliest and most lasting necessities of our being—to show that, in-

stead of being the creature of law or government, it must have had being long before formal governments existed, and that it constituted, in truth, one principal reason for their establishment—this is an important service to philosophy, and has been rendered, by the writer of this volume, in a forcible and impressive manner.

It is not to be expected that minds trained in different schools, and accustomed to survey subjects from different points of view, will always reach the same conclusions. But it is believed that few persons, in the habit of reflecting on this branch of Natural Law, will rise from the perusal of these Essays without a high respect for the author's powers, or without feeling that they have gained new light on a difficult and much-contested subject. The discussion is enriched with many pertinent and striking illustrations, derived from travellers and historians, and is pervaded by that suggestive spirit which belongs only to works of the higher class in philosophy, and which has a peculiar charm for the thoughtful reader.

It is not, however, for such readers only that these Essays will have interest. We live in an age, when all questions respecting natural rights are opened for renewed examination, and in a country, where free scope is given for the boldest discussion by all the people. We live, too, when abuses of every kind are the subjects of searching scrutiny, and when, in their impatience of such abuses, men are ready for almost any change which the rash or interested may propose. At such a time, it is to be expected that the inequalities which prevail in the distribution of property will excite fresh attention, and that men will charge, now on the institution itself, and now on the laws which regulate it, evils which ought, in justice, to be ascribed to their own improvidence. On the other hand, it must be remembered that there are evils inherent in, or incidental to, everything human, and that, in the case of property, these evils have unquestionably been aggravated by bad legislation. To correct such legislation becomes, of course, a high duty, and he who resists all change is as

unwise and unpatriotic as he who looks upon it as, in itself, a blessing. It is the first and most imperative duty of the philosopher, as of the statesmen, to mediate between the fanatical excesses of these reforming and conservative tendencies in society. He will be as anxious to eradicate what is bad as to preserve what is good; but he will be profoundly sensible of the delicacy and extreme difficulty of the task. While he does not discourage the spirit of improvement, he will labour to inspire men with a proper sense of their present advantages; and he will warn them, lest they touch with rash and violent hand, institutions which have become incorporated with the very existence of civil society.

Property exerts its benign influence on individuals and nations, only in proportion as it becomes invested in the popular mind, as well as by the letter of the law, with a complete sacredness. In preserving that sacredness, the labourer has more interest even than the capitalist; since he has everything yet to acquire, and his gains can have

no security if the right which a man has to the fruits of his industry, sagacity, and frugality be not acknowledged and respected. "Good order," says that philosopher and statesman of the last century on whom the mantle of Bacon fell, "good order is the foundation of all good things. To be enabled to acquire, the people, without being servile, must have reverence for the laws. They must labour to obtain what by labour can be obtained; and when they find the success disproportioned to the endeavour, they must be taught their consolation in the final proportions of eternal justice. Of this consolation, whoever deprives them deadens their industry, and strikes at the root of all acquisition, as of all conservation. He that does this is the cruel oppressor, the merciless enemy of the poor and wretched; at the same time that by his wicked speculations he exposes the fruits of successful industry and the accumulations of fortune to the plunder of the negligent, the disappointed, and the unprosperous."*

* Burke's Reflections on the French Revolution.

In the progress of legislation on this subject, it is earnestly to be hoped that the spirit of liberality and of moderation may both be cultivated. Dark and ominous will be the day which finds "the leaders in the work choosing," to borrow the words of the same great master, "to make themselves bidders at an auction of popularity. They will then become flatterers instead of legislators. If any of them should happen to propose a scheme, soberly limited and defended with proper qualifications, he will be immediately outbid by his competitors, who will produce something more splendidly popular. Suspicions will be raised of his fidelity to his cause. Moderation will be stigmatized as the virtue of cowards, and compromise as the prudence of traitors; until, in hopes of preserving the credit which may enable him to moderate on some occasions, the popular leader is obliged to become active in propagating doctrines and establishing powers that will ultimately defeat any sober purpose at which he ultimately might have aimed."

It is worthy of remark, however, that, for most of the prevailing inequalities in property, which admit of remedy, legislation can do little. To expect too much of governments, and too little from individual and social efforts, has always been the error of mankind, and it is one to which we are peculiarly liable at present. Political interests are now so predominant, and so much has been gained within the last century throughout the world by political changes, that it is by no means surprising that men should be tempted to think that everything depends on the course of law and of administration. We forget the multitude of interests with which law can never interfere without doing harm; nor do we consider that even when great revolutions are desirable, a fundamental change of *law*, to be effective, must be preceded by a change in the habits and opinions of the people. *Quid leges sine moribus?*

Take, for instance, one of those causes which tend most powerfully to disturb the equal distribution of property — intemper-

ance. The drinking usages which prevail among us cause an immense amount of drunkenness; and drunkenness, as is well known, occasions four out of five parts of all our pauperism. But is this pauperism to be cured by any legislation about property, or even about intemperance? Let us suppose that the entire capital of the country were taken from its present proprietors and thrown into one common fund; that it were then redistributed in equal portions to all the people, and that the most stringent laws were passed to prevent unequal accumulation! If intemperance continues to prevail, not ten years would elapse before most of the families afflicted by this vice would become destitute, and their shares of the original fund would be found in the hands of their frugal and industrious neighbours. Absolute equality can, of course, exist nowhere but in the dreams of the Utopian politician or philanthropist; and so long as labour, economy, and sobriety are conditions (as evidently they should be) for getting or retaining wealth, so long w[illegible]

the idle, improvident, and intemperate be doomed to poverty. To remedy such poverty, we must begin with its causes.

But what is the appropriate remedy for those causes? Is idleness to be cured by legislation? Let the laws prevalent in Europe for several centuries respecting the wages and hours of labour, and the subsistence of labourers and vagrants, answer the question. Let the history of sumptuary laws, again, teach how far governments can force *economy* and providence on a people. The experiments which have been made by legislators in regard to *intemperance* have been attended by the same result. For ages they attempted at one time to regulate, at another to prohibit; but, in spite of all the terrors of penalties and prosecutions, the desolating vice still kept on its way, till men like Theobald Mathew appealed from law to reason and moral sentiment, and free associations were formed to withstand the tyranny of pernicious customs. We all know the issue of that appeal. It should impress deeply on our

minds the great truth so forcibly suggested by many events of our time, that a remedy for some of our greatest evils is to be found in *social* rather than *political* action; that law can do comparatively little in achieving those benignant reforms, which must be gradual in order to be safe, and which will win their way by persuasion and example to a peaceful and enduring triumph, when force would only rouse resistance, or compel the form without the spirit of submission.

"It is not in our stars" nor in our laws "that we are underlings." I am far from wishing to underrate the vast influence of governments, over the condition and destiny of individuals. I well know that a badly constituted or badly administered system may paralyze the best energies of any people. Still it must be conceded that, under a system like ours, conceived and matured in the spirit of the largest liberty, a system to which we are proud to ascribe the pre-eminent blessings we enjoy, and by whose fostering care such multitudes have been conducted from penury to comfort, and even

to opulence, our first reliance should be upon ourselves. "It is not by levelling property, but by moderating passion," says Aristotle, "that we shall best attain that mediocrity which ought to be the aim of legislation."* That people who labour to ensure subsistence by industry, and who, at the same time, cultivate habits of moderation and self-command, can never long want, in a country like ours, the benefit of equal laws. Indeed, in this age, not even bad governments can long withstand the demands, if reasonable, of a frugal, industrious, and virtuous people. So long as the population of Ireland remained debased and idle, so long they suffered under the operation of invidious and disqualifying legislation. But no sooner did industry begin to emancipate them from their abject state, than the work of political regeneration commenced; and should the change which has recently passed, as if by magic, over their moral condition prove permanent, there can

* See on this subject Aristotle's Politics, ii., 5

be little doubt that that regeneration will soon be consummated.

In thus urging individual and social improvement in place of political reforms, it may be proper to guard against mistake. This is not recommended as an expedient which will replace legislation, or wholly supersede it, but as a means by which it can be rendered safe and salutary. It must not be forgotten that legislation may err on the side of omission as well as on the side of excess, and may do even more evil by removing venerable landmarks than by creating new and unnecessary barriers and restrictions. It is against this error that we are called to guard now. In receding from the arbitrary and intermeddling policy of former ages, governments are liable to pass to the opposite extreme. They are urged to this not only by the desire of change among the people, but also by the prevailing spirit of philosophy. They are now taught, and wisely too, that they should substitute confidence and conciliation for the distrust and suspicion with which they have

too long regarded mankind; that our race is moved by sentiments higher than fear; and that an appeal to these sentiments will furnish means at once the most appropriate and the most effectual to control it. Had these truths been learned, as they should have been ages ago, in the school of Christianity, they would there have been so qualified with just views of man's frailty and corruption, such lessons would have been inculcated of the majesty and supremacy of law, and such salutary terrors inspired by the revelations of a coming judgment, that nothing but unmixed good would have resulted from their application to human affairs.

But, unhappily for mankind, the first apostles of philanthropy were men who scorned to be instructed by One who came out of Nazareth. They inculcated the most unbounded confidence in the sagacity and sufficiency of man's native instincts, and bade him go forward without fear in the task of renovating society. The rhapsodies of Rousseau, in which he celebrates the supe-

riority of savage over civilized life, and invokes the reign of sentiment in place of ancient institutions and the "coarser ties of human law," these afford but an exaggerated specimen of a philosophy which circulated during the last century in almost all the schools of Europe. It was reproduced not alone in the coarse versions of Godwin, and of those who, like him, frown on all the restraints of law as inconsistent with "that increasing perfection which is the only salubrious element of mind." We see much of it, though greatly chastened and animated by a spirit altogether more rational and more truly generous, in the speculations of political economists. Sickened and wearied with the view of almost endless restrictions, which for ages had fettered trade and industry, they seem to have concluded that restraint was all that man had to dread, and that entire freedom would be synonymous with entire prosperity. They appear to have sometimes forgotten that labour itself could not be free unless it were secured against wrong, and that this secu-

rity, as it implies a restraint operating on all, would be a check on the labourer's own passions. If they did not overlook, they neglected to enforce with sufficient frequency and emphasis, the truth which cannot be too often repeated, that *order is the most essential element of liberty;* that such order cannot exist without obedience to law; and that law cannot be obeyed unless men cultivate habits of self-control, and impose restraint on the very sentiments which impel them to industry and thrift.

But it is time to bring these remarks to a close. It will be found that in these Essays the author has taken a judicious mean between those who would hedge property about with needless safeguards and those who would leave it without protection. He is the advocate of an enlightened freedom; a freedom tempered only by such restraints as are indispensable to its own preservation, and inseparable from the present lot of humanity. He has endeavoured to unfold some of the purposes with which a beneficent Creator has assigned to man an earthly

inheritance of labour and care. He shows how the welfare of the whole human family is identified with the savings of economy, or, in other words, with the accumulation of capital; and how deeply the labourer is interested in sustaining those laws which protect each man in the enjoyment of his earnings, and of the earnings of his parents or benefactors. He points out the wisdom of that beautiful provision by which God has connected the progress of our race with the humble labours of industry; and how far such labours are from degrading the individual who pursues them, or from diffusing through society a sordid or unworthy spirit. Such lessons are always seasonable. In this age, pre-eminently devoted to industrious enterprise and accumulating wealth with unparalleled rapidity, they are especially needed, and it is much to be desired that they may be widely circulated.

A. P.

Union College, September 10th, 1841.

PROPERTY AND LABOUR.

The subject of property and labour is one of great extent, and in all its details of such moment to human society, that it would be impossible even merely to allude in these essays to every important point connected with it. It will be more serviceable to those readers who may not have deeply reflected upon it, if they should find some truths of elementary and extensive importance clearly portrayed, and should be led by them to a deeper consideration of the general subject than could be induced by a more comprehensive yet hasty sketch.

Every man who enjoys an active share in the government of his country is bound to endeavour, as far as lies in his power, to make himself acquainted with the elements of the society in which he lives; and of these elements the institutions of property and marriage are the two most essential.

Property and marriage have been at all periods the two most powerful institutions to calm, protect, and improve mankind. The family, which can exist only where the institution of marriage exists as an exclusive and permanent connexion of the sexes, has been, and will continue to be, through all ages, the true "nursery of the commonwealth;" and property, which induces man to start on the career of industry and exchange, has also been through all periods the firm foundation for peace. Notwithstanding the contention and crime to which property often leads, and the misery which matrimony sometimes entails, the one is still the great source of peace, the other of kind affections and happiness; and both are fountains of industry, of morality, love of kind and country, and of generous impulses. "These two great institutions convert the selfish, as well as the social, passions of our nature into the firmest bands of a peaceable and orderly intercourse; they change the sources of discord into principles of quiet; they discipline the most ungovernable; they re-

fine the grossest, and they exalt the most sordid propensities; so that they become the perpetual fountain of all that strengthens, and preserves, and adorns society; they sustain the individual, and they perpetuate the race. Around these institutions all our social duties will be found, at various distances, to range themselves; some more near, obviously essential to the good order of human life; others more remote, and of which the necessity is not, at first view, so apparent; and some so distant that their importance has been sometimes doubted, though, upon more mature consideration, they will be found to be outposts and advance-guards of these fundamental principles; that man should securely enjoy the fruits of his labour, and that the society of the sexes should be so wisely ordered as to make it a school of the kind affections, and a fit nursery for the commonwealth."[1]

Eloquent as these lines are, they are not more so than numerous passages on the same subject in the ancient poets and prose

[1] Mackintosh, Disc. on the Law of Nature and Nations.

writers. Indeed, we find that man, in whatever period or country, so that he have arrived at that degree of maturity which calls on him to reflect upon the component elements of human society, discovers and amply acknowledges property and marriage as the two main stays of social life, and the two most active agents in civilizing the human race. The Greeks, and before them the Egyptians and Hindoos, together with the Chinese, prove the same fact, which is evinced by the history of civilization in modern Europe.

It is natural, therefore, that at all periods when peculiar attention is directed to an inquiry into the elements of society, these institutions, too, should become the subjects of renewed discussion. Our own period does not make an exception; for, if the subject of marriage is less discussed than that of property with reference to its practical importance, it is owing, not to the want of importance attached to it, but, on the contrary, because the Western World—all Europe, with her many descendant nations

—acknowledge, with one voice, not only marriage, but monogamy, to be of the last importance for the cause of human advancement.

That the Western World thus highly distinguishes the institution of monogamy with one voice, is not using an extravagant term, because those writers who have attempted to break in upon this ancient and indispensable institution excite our contempt for their shallowness, and our disgust at their low sensuality, and are, withal, very few in number, compared with the multitude who have held a different opinion. The theory of these few stands contradicted on every page of history by the laws and existing institutions of generations after generations.[1]

[1] It is a fact which deserves attention, that, on the one hand, none of those writers, to have produced whom is the melancholy distinction of our own times, recommend polygamy; but if they attack the sanctuary of monogamy, they do it either in demanding promiscuous intercourse, or exclusive intercourse for a limited time; and that, on the other hand, the most distinguished moralists of the East strongly recommend monogamy. Thus, to give but one instance, the most esteemed ethical work of Middle Asia, called Akhlak-I-

The whole subject of marriage is a simple one. Property, however, although not less universally acknowledged by man, is necessarily subject to far more modifications. These, and the fact of its enduring

Jalaly, says, section iii. of book ii. : "Excepting, indeed, the case of kings, who marry to multiply offspring, and towards whom the wife has no alternative but obedience, plurality of wives is not defensible. Even in their case it were better to be cautious ; for husband and wife are like heart and body, and like as one heart cannot supply life to two bodies, one man can hardly provide for the management of two homes." Translated by W. F. Thompson, of the Bengal service, for the Oriental Translation Fund, London, 1839, page 266. This singularly confirms some views taken in the Political Ethics on the subject. When the author stated them he was not yet acquainted with this passage. Gutzlaff, in his China Opened, states pretty much the same in regard to that vast empire. In saying that certain disgusting views, boldly avowed, form a melancholy distinction of our times, I am well aware that on many previous occasions religious fanatics, both catholic and protestant, have impiously preached and practised "intercourse of the faithful not subject to the fetters of the law;" but they were at least religious fanatics or designing criminals, who merely used this cloak of fanaticism. In our times we find writers and lecturers who are so degraded that they speak of man's offspring with a loathsomely calculating indifference, as fishermen would speak of the spawn of their oysters, and who dare to hold up their doctrine as the height of philanthropy.

beyond the life of man, lead to a greater variety of reflections, not only upon these modifications, but also upon the whole character, essence, and origin of property; nor is it possible to give any connected view of the rights and obligations of man, or of his social, and especially of his political existence, without largely treating of the subject of property. An age like ours, which, among other peculiar features, is very strongly marked by a political character, could not fail to produce many arguments and theories upon this subject.

If we take, from the highest point of view, a survey of the whole history of civilization, we shall find that its two great divisions are Asiatic and European civilization; the one fixing, and often immuring, all knowledge, rights, relations, and even the intercourse and exchange among men by means of unalterable religious dogmas;[1] the other char-

[1] The three Asiatic religions which count most votaries, the religion of Bramah, Buduh, and Mohammed, especially the two first, unalterably fix almost all branches of science, astronomy, geography, and natural philosophy, no less so than

acterized by criticism, by boundless, often restless inquiry. It fairly began with the Greek historian Thucydides, and, in general, forms the essential difference in the character of Grecian science and that of contemporaneous Asiatic nations.

---

civil and political relations, weights, measures, and interest of money; so that it becomes impossible for a follower of Buduh, for instance, to adopt more rational views or correct knowledge, without, according to his belief, impiously abandoning the doctrine of his sacred writings. The blessing of perfect liberty, granted to us in this respect by the absence of political and scientific discussions or axioms in the New Testament, is not sufficiently valued by those who attempt to use the bible in order to settle questions belonging to these branches of knowledge. So decided is the dogmatic character of the Asiatics, that even the Chinese, the least religiously-disposed people on earth, consider their so-called classic writers as forestalling all inquiry. What they have said on morals, politics, natural history, physics, medicine, geography, and architecture, style of writing and poetry, is unalterable law, a fixed dogma to the vast Chinese population; and if, in other countries of the East, the inquirer endangers his religious welfare, he becomes in China a presumptuous innovator, guilty of the heinous offence of wanting in filial piety to his ancestors. Mr. Gutzlaff shows this very abundantly in the work cited in the preceding note. It gives, so far as I know, the most thorough and detailed account of that remarkable nation.

There have been periods in the history of Europe, indeed, in which the inquiring spirit of the Western race was greatly fettered by the dogmas imposed upon it by an extensive system of theology, and a philosophy closely interlinked with it; but the European mind has always resumed its free inquiry, especially so after the restoration of learning and the reformation of religion.

Since these two great events have exercised their powerful influence upon the great family of Western nations, a boldness and activity have been imparted to the inquiring mind, and the extent of research has been widened in such a degree, that men have sometimes fallen into the extreme opposite to that of the spellbound Asiatic. Men have at times forgotten the continuity of mankind, of society, and civilization; they have hastily reasoned from doubtful, and often arbitrary abstract principles in spheres, in which sound reasoning can consist in a shrewd and cautious investigation of experience only; and in morals as well as in politics, they have not unfrequently substitu

ted an opinion rashly formed and vehemently maintained for those rules which can be safe and unalterable only if they are the joint result of calm and impartial reflection upon the feelings and irresistible impulses of man, manifested in the transactions of life and the institutions grown up out of them, and upon the accumulated and imbodied experience of mankind. The discussions on the subject of property have not remained free from these evils, which have been the greater, because many modern writers, most distinguished for extravagant theories, have been able to plead in their favour, with some degree of plausibility, the opinions or principles incautiously advanced by others, who nevertheless maintained, upon the whole, the very opposite system.[1]

The first renewed discussions upon property took place at a time when it was a common error, probably unavoidable at that pe-

[1] The principles on property expressed by Paley have been used to support extravagant and ruinous theories, which are the opposite to that which he wished to demonstrate.

riod, to ascribe things, which we now observe before us in a definite and systematic state of existence, to as definite and well-planned an origin, effected by distinct reflection and conscious will—in short, to invention, almost as clear and as well guided by a collected judgment as we know the mental process to have been which resulted in the invention of some complicated machines, or the ingenious removal of some disturbing action. The invention of languages, governments, property, and even of the fine arts, was spoken of in this sense of the word. We thus read of the agreements of men to establish governments; of their convention to use certain sounds for certain ideas; or of their resolving to use the precious metals as coins and measurements of value. In many cases in which it was absolutely impossible to refer a common usage or a prevailing idea of justice, imbodied in a universal law, to a definite pact, a tacit contract was at least supposed as their original starting point. A great writer, whom civilized mankind will always

return to consider as one of their true benefactors, whatever it was lately the fashion to say in derogation of him,[1] even he could not wholly free himself of this view, which the advanced state of knowledge and the deeper research of modern times teach us to be untenable. He speaks, in his immortal work, "of the intention of those who first introduced private property," and says that "it is but reasonable to suppose that, in making this introduction of property, they would as little as possible deviate from the original principles of natural equity."

History, however, shows us no such original introduction of property. The idea of property was not conceived in the human mind in reasoning upon certain existing evils or expected advantages, as in some instances, indeed, the government of countries has been changed in consequence of deliberation upon existing and pressing cir-

[1] Hugo Grotius, in his work on the Rights of War and Peace. The student will remember likewise Paley's passage on property.

cumstances, or as the Constitution of the United States was adopted after protracted discussion.[1]

The thing was before the word; the word before reflection upon its meaning, extent, and usefulness. Upon inquiry, we shall find that private property exists many centuries, probably thousands of years, be-

[1] The framers of our Constitution made and adopted this instrument, indeed; but, although we are able to refer its introduction to a definite day and hour, we must guard ourselves against considering even this act an invention. Besides that it is founded upon the bulk of the English Common Law, nearly all its essential features are either directly adopted from the British Bill of Rights, the Act of Settlement, and the British Constitution, or are modifications, improvements, or expansions of inherited principles. It is for this reason that its framers produced a living thing, taking root at once in the practical life of the people. Had they acted otherwise, we would now read of their instrument as we do of a constitution of Herault de Sechelles, and several others produced in the convulsions of the first French revolution. The lawgivers of antiquity, the Lycurguses, the Solons, did not invent; they did not spin the thread of their political systems out of themselves as the silkworm weaves its thread from out itself; they collected, simplified, digested, modified, and improved the common law of their land or tribe; and more no legislator can do, if he means to produce that which shall be useful and lasting, and has the breath of life.

fore men began to reflect upon its origin its fairness and utility; and that those among whom it introduced itself, or with whom it grew up, had no conscious intention of bringing it about, nor any clear conception of the many effects which might result from it. Neither did they reason upon the right by which they held it, any more than the daring fisherman does now, who sails in his craft to the Banks of Newfoundland to catch the unappropriated fish of the sea, but who feels his right very strongly so soon as any one attempts to dispossess him of the well-earned produce of his labour and danger. The origin of property can be referred to no fixed point of time. It grew up with man, as language, as government did. It was the necessary and unavoidable effect of his physical and moral nature. The two first human beings could not but feel the import of Mine and Thine.[1]

On the other hand, it is an error not less common at present to ascribe everything, the

[1] I must here refer the reader to my Political Ethics, where I have enlarged upon this point.

commencement of which we are unable to refer to a distinct act of reflection and conscious will—to a barbarous origin, and to infer that we have, for that reason alone, the right or even the duty to refashion or destroy it. A power of comprehension or foresight is thus ascribed to the mind of the individual which it never possesses; the result of influence on man's nature, of things and circumstances around him, is wholly left out of consideration. It is conceived that civilization dates but from our period, and that everything which does not accord with our systems, classification, and theories is bad on that account, and no time ought to be lost in changing all institutions accordingly. The fact that private property has existed at all periods with all nations from time immemorial, is considered to be rather a proof of its viciousness and barbarity than an evidence that we ought to view it with mature and cautious reflection, well weighing whether there be not that in it which agrees with our inmost nature for our best interest.

Man acts according to the principles of his nature from the beginning, and to it he always returns, if, for a time, violence, blindness, or fanaticism force him away. It is a living principle within him, long before the philosopher acknowledges it as a subject of consciousness or imbodies it in a system; a principle which is the more clearly acknowledged and the more extensively acted upon the farther essential civilization advances; and which it is one of the most important problems of the philosopher in the closet, and the lawgiver in the assembly, to present clearly, and free of all accidental adhesion, so that it may the more purely be acted upon in wider and wider spheres.

Such, for instance, is the consciousness of every human being, that he who lives has an original right to live. All men have ever acted upon this principle; innumerable laws silently acknowledge it, yet it may not have been pronounced in so many words for thousands of years. A constitution which should propound this primitive, indelible, and absolute consciousness in a

prefatory declaration of rights, would contain something very useless; and a Legislature which, upon seeing that this right is nowhere acknowledged by words, should enact a declaration to that end, would render itself ridiculous.

A due appreciation of property, in so far as it consists in wealth, has likewise suffered from the fact that, before the truths of the science of political economy were well established, wealth was pretty generally considered to consist in money; an error into which men easily fell, because all wealth and values are measured by money. If a man possesses a farm worth twenty thousand dollars, we say that he possesses twenty thousand dollars. Money, and coin or specie, again, are ideas very much associated in the minds of men; and as it is certain that there exists but a limited and fixed quantity of coin, which cannot be increased at pleasure, it was soon believed that, just as much property as one person possesses, so much was taken from the others, or so much were the others prevent-

ed from possessing. Political economy has exhibited this fallacy, but the truths which this science develops have not been sufficiently regarded by those writers who of late have treated of property, although it seems that without those truths it is impossible fully to comprehend its nature.

II.

Property is that which we own, and we own a thing if we have the exclusive disposal of it, or can exclusively use it for our purposes (use or abuse it). Possession, strictly speaking, means the mere fact of having a thing in our power, lawfully or not. A thing may be possessed and not owned, as the thief posseses, for the time, his stolen goods; and it may be owned and not actually possessed, as the land which is rented for a number of years. In this case the owner has parted with his right of possession for some consideration or other. The act of taking possession of things unowned, or of seizing them and making them subject to ourselves, with the intention of holding them as property, is called occupying them.[1] Occupation leads to appropriation.

[1] Occupancy thus involves the idea of the presence of the occupier. We must be careful, however, to attach a correct

Property, like government, shows itself from the earliest periods, and during all stages through which man passes in his long career of civilization; first, in an incipient and less defined state, but more clearly developed with every progressive step of that civilization which unfolds the true nature of man as it gradually advances. Civilization is man's real state of nature. Property, in this respect, resembles all those institutions which are the necessary effects of man's nature, that is, of his physical and mental constitution, and the objects for which he was created; effects, such as marriage, the administration of justice, or, as was mentioned above, government itself.

idea to the term Presence in this connexion. Actual physical presence at every moment cannot be meant, for this would demand physical ubiquity, and in this sense land could never be occupied. We shall find, therefore, that Presence means personal controlling power. Some arguments directed against the right of property arising out of occupancy, on the ground that it requires presence, which is in many of the most important cases impossible, seemed to require this explanation. For a comprehensive discussion on Occupancy the reader is referred to the articles on this subject in the Encyclopædia Americana, to Kent's Commentaries, and also to the first chapter of Story's Comm. on the Const. of the U. States.

There is no property which has not originated either in peaceable appropriation, that is, in making that our own which had no owner before; or in production, that is, in bestowing exchangeable value (utility or desirableness) upon that which had no value before; or in long-continued and undisturbed possession; or in forcible seizure; or, lastly, in acts which are a mixture of the preceding ones.[1]

Those philosophers who have maintained that the original state of man, which they called his state of nature, is a state of war, every one warring with every one, were necessarily obliged to consider property as the later invention of man, or a thing made by government, which they likewise considered as an institution made by a distinct and conscious act of men who had become tired of the previous state of continued warfare.

[1] Political economists have said that mere appropriation, in some cases, bestows value upon the thing. I believe there is no case belonging to this class in which it is not the removal of the thing which gives it value. But this discussion seems to be unnecessary for our present inquiry.

Unimportant as a speculation of this kind may appear at first, it is not so if we consider the consequences which are immediately drawn from the first position, that property is either an absolute creature of government, or that all property originates in rapine and violence.[1] But as love is before hatred, and in its nature lasts longer, so is peace before war. War is but interrupted peace, not peace suspended war. To define peace by a state of interrupted war would be as incorrect as to say that rightful property, the exception, is that which is not the produce of pilfering, the general. Dispute, quarrel, persecution, and enmity have a definite object; that once obtained, they cease; but peace and good-will are general, and their own end. They must first be disturbed before they cease, and return of themselves so soon as the disturbance is at an end. Peace and war are

[1] That which we now behold as peaceably-possessed and well-secured property, has indeed, at times, changed owners by violence or fraud; but this is an interruption of peaceful transmission of property, not its origin. We shall recur to this subject farther below.

like health and fever, like food and medicine, like calm and storm; and property, resulting from the nature of man, is chiefly the effect of peace. Indeed, the idea of Rightful could never have originated out of war. If men declare that property acquired by war shall be rightful property, it is necessary that they should have acquired the idea of rightful property previously, and in relations founded upon right, not upon mere violence. All to which man could have elevated himself under such circumstances would have been the idea of bare possession.

We shall see that property arises mainly out of the state of peace, when we consider the necessity of property, the right of property, and the agreement of property with our essential nature.

Necessity of Property.

Man, in common with all animals, must sustain his body by nourishment, which is not offered to him as to the plants, but he must go in search of it. Man must take, appropriate the food he finds; but, unlike most

433948

of the other animals, he is obliged, even in the most savage state, to store up. He is bound to do this, because, although in part a carnivorous animal, he cannot remain so long without food as the animals of prey; he requires a more regular supply; because his body, unaided by weapons or traps, is unfit to obtain for him animal food; he must, therefore, regularly pursue the chase at the proper time of the day and at the proper season, and must gather stores during favourable periods for unpropitious times; and, lastly, because his children depend longer upon him for food than the young ones of any animal upon their parent.

When the mammalia cease to take milk from the mother, they begin to shift for themselves, and, as a general rule, the parental care of animals does not extend beyond a season; so that, before the new litter makes its appearance, the preceding brood takes care of itself. It is very different with the human species. Children require to be provided for, years after they have ceased to be nursed. In the mean time, successive

children are born, and the female parent is prevented from obtaining food by the necessary care which the young ones require.[1] In short, man must provide for his family, which

[1] Lord Kames, in his Law Tract on Property, mentions already that "Man, by the frame of his body, is unqualified to be an animal of prey." The travellers to the Polar Regions, for instance Captain Ross, inform us of the enormous power of swallowing, and the capacity of sustaining hunger, which the inhabitants of those unhappy regions acquire, from being most irregularly supplied with food. Yet even this does not equal the power of many animals of prey; and in how wretched a condition are those people!

There seems to be a general law pervading the animal world, that the higher the animal stands in the scale of creation, the longer is its close dependance upon the parent. The reptiles deposite their eggs; they abandon them; the sun hatches them, and the young ones take care of themselves. The viviparous reptile provides in no case, I believe, for its young. The fish is born, and does not know, even for a brief term, its parent. The bird parts with the egg, that is, with its issue, before it is a separate living individual, but there is hatching and feeding by the parents. The mammalia retain the offspring until it is a living being, and give nourishment to it from out themselves. Men, at last, furnish the same food, but the child continues to be dependant long after the period of lactation. Families are formed, and continue beyond the period of physical dependance, because the long time of dependance gives scope to the development of mutual and enduring affections, of gratitude and love.

he cannot do without storing up, in all those many regions in which the fruits of the forest are insufficient to support him.

Indeed, it seems that they are insufficient to do so without a proper search and consequent accumulation even in the most favoured regions. The fruits of the earth, without gathering and storing, and without exchange, which presupposes accumulation, furnish but very scanty food, even in such luxuriant districts as Upper California.[1] The peculiar physical organization of man obliges him in another way to acquire property, even in his lowest stages. His limbs are nimble and of the nicest organization, yet without talons; his mouth does not protrude so that it might be used for attack; his body is unprotected by fur or feather. He must make arms and provide shelter for himself; he must *produce*, even though he desire no-

[1] A History of Upper and Lower California, comprising an Account of the Climate, &c., by Alexander Forbes, London, 1839. This work furnishes us with a striking illustration of the wretchedness of man, if he lives without exchange and well-developed property, even though surrounded by a bountiful nature.

thing more than to live ; and even the lowest savage is well aware that what he himself has produced is his. It requires no reasoning ; he is conscious of it.

The destiny of man, however, is not merely to exist ; he must become civilized ; civilization cannot take place without increase of population, and population cannot increase without increased production, increased accumulation and exchange of products.

Wherever men do not accumulate property, either because they actually cannot do so, owing to the inclemency of their climate, or will not do so, because they are yet too brutish, we find a very thin population. All the sustenance offered by a luxuriant forest well stocked with game, or by the rivers and sea, suffices to support but a very scanty population. The Tchucktshi on the northern coast of Asia,[1] the Californians already mentioned, the New-Zealanders, our Indians in the West, and the inhabitants of Bur-

[1] Narrative of an Expedition to the Polar Sea (North of Asia), by Admiral von Wrangell, London, 1840.

mah,[1] are striking instances of the truth of this remark.

But civilization does not only require accumulated property because it cannot exist without increased population; the progress of civilization itself demands greater and greater accumulation. Without it all men must spend their whole time in the search of food, like the animals, and in the pursuit of the most necessary articles of protection; and no values[2] can be spared for all those pursuits which, in the end, increase comfort and happiness indeed, even food

[1] A Description of the Burmese Empire, compiled chiefly from native Documents, by the Rev. Father Sangermano, missionary; translated by William Tandy, D.D., London Oriental Translation Fund, Rome, 1833.

[2] Value is generally used for exchangeable value, because in political economy we treat of these only. Value is everything that is useful or desirable for more than one, and for which those that do not possess it are willing, because they desire it, to part with other values called equivalents, that is, things which are as much desired by the possessor of the value of which we first spoke. A has a barrel of flour, B has forty pounds of coffee; A desires the coffee, B the flour. They exchange it. Flour and coffee, therefore, are exchangeable values, and the barrel of the one and the forty pounds of the other are equivalents in this case.

and raiment, yet not necessarily immediately so; such, for instance, as astronomy and mineralogy. Our next inquiry into the right of property will bring us back to this subject.

The reader has found in the last note an explanation of the term value; and we may now define the term property more correctly by saying, we call values property when we consider them with reference to their owners.[1]

---

[1] It would seem that this more correct definition is not without importance. The value of a thing is not the same with its substance. Value is utility, desirableness. It may be depreciated, although the substance, the matter of the thing, remains absolutely the same, or may even improve. Coffee becomes better by being old; yet, while thus the substance improves, its price, its value, its desirableness may be depreciated by large importations, so that the owner receives now for the better coffee less than he would have obtained a year before for inferior coffee. After the rout of the French at Victoria by Wellington, the British soldiers sold eight Spanish silver dollars for one guinea, because silver was too heavy to carry, and thus the gold became highly desirable.—Maxwell's Life of Wellington. If we keep this definition of property strictly in view, it will be far easier to see the justice of exclusive property, even in land. For the value, constituting the chief ingredient of property, is mainly the creation of man. On the other hand, it will enable us to judge with justice and

The Right of Property.

The necessity of acquiring property for the merely physical subsistence, as well as the civilized state of man, would sufficiently prove the original right of acquiring it; for, if the Creator calls man into existence to live, and has destined mankind for civilization, he must, as an intelligent being, have furnished them with adequate means to support the one and to attain the other; and property, which is one of these adequate means, cannot, therefore, be unlawful. But it will be necessary to consider the right of property, especially the right and necessity of private or individual property, more in detail.

The primary origin of all individual property must be occupation; rightful, if the thing appropriated belonged to no one; wrongful, if it be taken by stealth or violence from a rightful owner. Production

perspicuity of such property as does not offer itself to our eyes in a definite bulk; for instance, the exclusive right of property which the literary producer has in his own product, the literary work.—See my Letter on International Copyright.

must be preceded by appropriating unowned things, for value cannot be bestowed upon any material by our industry without first appropriating the material, and some instrument, say a sharp stone or an indented bone, to work withal. The savage, before he can scoop out a tree to serve him as a canoe, must have appropriated the trunk and something which may serve as a tool.

Appropriation, however, does not only precede production in the earliest stages of a tribe; it continues to do so, in innumerable cases, throughout all stages of human society, from the rudest to the most refined. Appropriation and production go almost constantly hand in hand. In very many cases the whole act of production consists solely, or in a very high degree, merely in appropriation and removal. The fisherman appropriates the distant fish, and, by removing it from the banks of the sea, where it is desired by no one, and, consequently, has no value, to the market of Boston, where it is desired by many, he bestows value upon it; he produces The peb-

bles on the seashore are worth nothing; they are removed to the garden of a resident a hundred miles up Hudson's River, where the owner is desirous of making a dry walk, and the gravel is sold to him at a very considerable price. The blackberries, and many other fruits of the forest, medicinal plants, or the translucent ice of the Kennebec River, are appropriated and carried, the one to a populous city or distant hospitals, the other to New-Orleans and Calcutta, where they are desirable, and where prices are obtained for them sufficient to encourage these branches of industry. In the place where these lines are writing, twelve and a half cents are willingly paid even for a pound of inferior ice. Leeches, of no value whatever in the brooks of Sweden, are exported from that country, and sold at high prices in the United States, because they are a very desirable article here. The owner of a factory appropriates the power of the swift rivulet for the time that it passes through his premises, and uses it to bestow a greatly increased

value upon the substance which he works up into cloth; the bleacher appropriates the rain which falls upon the linen sent to him to receive a white colour.

Right and Duty of Appropriation or Occupancy, and Production.

The right of appropriation is founded upon that primitive and absolute consciousness, which is acknowledged by all, because it lives in the breasts of all, and precedes all acknowledgment of right by government. It is the same consciousness on which the right of parents over their children is founded; the right of resistance against wrong; the right of a human society to punish offenders; the right of protecting what is our own, or our virtue, or the right we have to demand justice; in short, the consciousness upon which all those primitive rights are founded of which the largest and most detailed codes are but amplifications.

Although mankind have acted at all times upon this truth, philosophers have not unfrequently insisted only upon that right of

property which is given by the act of production. It is evident to every human understanding, even the weakest, and accordant with the feelings of every one, that no person has a right to take from me that which is the sole fruit of my labour, toil, peril, or daring, if, in producing it, I did not interfere with the same rights of others, as good as my own. The right of appropriation or occupancy was insisted upon by ancient philosophers, but by later ones has been either not so distinctly maintained, or has been wholly passed over. This was owing, for the most part, probably, to three causes: first, philosophers started from the idea that originally all things belonged to all men, and things not appropriated, or not belonging to any individual, belonged, therefore, to *all* in common; secondly, it was not observed with sufficient distinctness that there can exist no production without previous occupancy; and, lastly, the peculiar nature of landed property, a subject which has some difficulties of its own, was not sufficiently considered.

The second point has already been spoken of, and the sequel of these tracts will contain remarks on the first and third. Here it is necessary to observe again, that by appropriation we understand the act of making that our own which belongs to *nobody*.

We make a thing belonging to nobody our own, if we bring it under our control, and use or enjoy it. The term of enjoying is preferable, as of more extensive meaning. If I find a beautiful shell on the seashore, and pick it up to embellish my mantelpiece or to amuse my little ones, or an Indian finds a feather, and ornaments his head with it, these articles are bona fide our own, although it may be said they are not of any actual use to us; but we enjoy them; we desire their possession; nor is it possible in political economy to draw a distinct and general line between mere utility and desirableness for any other purpose.[1] Now,

[1] It would be very difficult, indeed impossible, to draw a line where actual utility ceases, respecting houses, furniture, food, or dress. The advancement of civilization is in a great

what belongs to no one may evidently be occupied by any one;[1] for if it belonged to no one, who will dispute the exclusive right of him who first brought it within his power, and uses or enjoys it?

An instance may illustrate our position. A savage, and though we imagine him of the lowest order, walks on the beach of the sea, and finds a stone which he considers fit to serve as an axe or some other instrument. It belongs to no one; he is conscious of having a right of appropriating it. If another man should come to despoil him of this useful stone, he would feel indignant at

---

measure founded upon the fact that what is luxury in one age becomes want in the next. Shirts and window-glass were in no very remote periods articles of great luxury. Paupers, at the present time, receive in England and the United States a weekly allowance of tea.

[1] Some have maintained that it amounts to the same, whether we assume that things belonged originally to no one or to all. This seems to be erroneous. One or the other assumption leads to different results. Farther below I shall give my reasons why I believe it cannot be maintained that things unowned by any individual belong on that account to all. I am obliged to defer this inquiry, because it would lead us here too far from the main subject of the present page.

the injustice, and resist the aggressor. He feels as clearly as man can feel anything, that priority of possession gives the fullest possible title to property. It belonged to no one; now it is in his individual possession, and nothing more than individual possession is necessary to make it his own, wholly and entirely. It is not, in this case, his labour or toil, however insignificant, which makes the stone his own, or converts the unowned thing into property. The aggressor, whom we have supposed, may have come from the distance of three miles for the purpose of seeking for precisely such a stone, and the first finder may have slept near the spot where he found it. It would change in no respect the feelings of the proprietor.[1] Nor does, as stated before, the degree of utility for which it is wanted

[1] Some twenty or thirty years ago the following case was decided in a court of the State of New-York. B had pursued a wild animal, if I remember right, a hare, for a very long distance, when suddenly C stepped in, shot, and appropriated it. B claimed the animal, but the court was of opinion that his labour had not yet produced, or been preceded by occupancy or possession, while the killing by C had produced it

change anything. If the article found were a shell, which the finder desires for an ornament, but the aggressor for a cooking utensil, the consciousness of the first that the shell is his would be as complete as if himself had wanted it for a spoon.

The savage now forms an axe of the flint which he appropriated; he bestows labour, and, by doing so, confers utility upon it; he produces. If he chooses to exchange the flint axe for something more desirable to him, or if others desire to exchange their property for this axe, he produces what we have seen already is called an exchangeable value. If he desires to keep the instrument in order to fell a tree and hollow it for the purpose of using it as a canoe, we call his axe the capital, which, in making the canoe, he uses productively, inasmuch as the canoe is of greater utility to him, and, if exchanged, of greater value than the axe. Capital is the value used in producing new values. He launches the canoe in order to catch fish; the canoe, in turn, becomes capital, used productively in appropriating the unowned inhabitants of the sea.

We have observed already the necessity of appropriating, preserving, accumulating, and producing, and have thus seen the duty as well as the rightfulness of appropriation and production.

Right and Duty of Exchange.

The man, whom we have selected as an instance in the preceding passages, may catch in his canoe as many fish as he deems proper to satisfy his own appetite, and that of his wife and children; either to provide for their wants of that day, of a whole week, or a year to come, if he have learned by this time how to preserve the produce of his industry. He may not only catch as many fishes as will be actually consumed by his family, but he has a right to appropriate many more, which he means to barter for such things as are desirable for the sustenance, comfort, or health of his household, but which he is unable to produce himself.

If experience has taught him already that he cannot always depend upon having the fish precisely at the time when hunger

calls for them, or that he stands in need of other products which he nevertheless cannot, or wishes not to produce himself, he has not only the right of accumulating and bartering away that which is truly his own, but it is his duty to do so; for the laws of nature make wife and children dependant upon him, and he is bound to provide for them.

If he exchanges his surplus of fish for fruits or game which another obtained while he himself was engaged in catching fish, he knows that the former are now, after the exchange has taken place, as much his own as the fish were before that act was completed. Both these men soon find out that, by pursuing each his peculiar branch of industry, and afterward exchanging what, according to their desires, are equivalents, they are enabled to produce far more, and obtain the enjoyment of a much greater variety of products, than they would be able to do if each one should continue to produce all that he himself directly wanted for his own consumption. By division of labour (which

rests on the undoubted right of every individual to apply his strength and skill as he thinks best, and which rests on the same primitive consciousness with our right of acquiring individual property by appropriation or production) and by exchange, mankind are enabled to increase rapidly, and to exist in great numbers in districts which produce but one or two articles of food, or, perhaps, none at all, but which supply some other article that is desired by others, and for which these are willing to give what is wanted by the first. The richest mining districts may be totally destitute of food; nor could the people of the pepper countries live upon that produce: so that by division of labour and exchange, two expedients which distinguish man from the animal, we produce infinitely more than we could do otherwise, and to it we must ascribe, in a great measure, the remarkable phenomenon of the steady increase of mankind from country to country. Without them man could not have carried out the great law, that, differing from the animal, he shall produce his

own support, and vastly increase it with increased population; nor could mankind without them have increased to the number of the wild beasts, scanty even in the most fertile forests; and, on the other hand, if animals had been capable of exchange, they, with their vastly greater fecundity, must soon have overrun the earth and exterminated man, notwithstanding all his attempts to destroy them.[1]

It is not, however, produce alone that men have a full right and a bounden duty to exchange; they may exchange anything that is theirs, and of which they can freely dispose. Suppose one fisherman finds that, in spite of all his exertions, he cannot obtain so much produce as would be sufficient for food, raiment, and other wants of his growing family; wants, moreover, which

[1] The enormous power of multiplying in an animal such as the rat may serve as an instance. If that Nature which has endowed the rat with great procreative power, had not also provided for means of limiting their number otherwise than in our mind, which would naturally lead men to the invention of traps, it requires no calculation to see how easily the vermin would prevail over man, vainly struggling against their number.

increase in number as men advance, step by step, in the career of civilization. He has stored fish and grain or dried venison, and now offers a part of it to a healthy lad if he will work for him, or in exchange for his labour. The parents of this lad have been too indolent to accumulate, or they have pursued an unproductive branch of industry, or may have met with repeated misfortunes, by which their accumulations were destroyed. The lad is willing to work, the fisherman willing to part with a share of his accumulations, because the labour of the young man will produce him more than that with which he parts; yet without this capital, previously accumulated, the lad could produce nothing, or not live so well as he may do in the fisherman's family. Both, therefore, are benefited, both entitled to the produce of their exchange.

Exchange is one of the fundamental principles of the great household of mankind, and exchange presupposes property; for we can exchange those values only over which we have an exclusive right; and, by offer-

ing our products for others, we acknowledge that their possessor has a right to dispose of them as he thinks proper.

Right and Duty of Accumulation.

Accumulation of property, of values or wealth, does not chiefly consist in the preservation and storing of a certain substance for the purpose of direct, though gradual consumption, but it consists in the gradual increase, from year to year, of aggregate values. The inhabitants of some polar regions are obliged to catch, at the proper season, as much fish as they possibly can, and to preserve them in excavations made in the ice, in order to have food for the rest of the year. The hunters in the northwestern tracts of America must make their *cachès*,[1] so that they may not be exposed to

[1] A *cachè*, from the French *cacher*, to hide, designates, in the language of the northwestern hunters, some food, for instance pemican, which is carefully put up, and deposited, as far as possible, out of the reach of searching animals, on trees, or, which is more common, under rocks.—See, among other works, Captain Back's Narrative of the Arctic Land Expedition. Captain Parry's deposite of the stores of the

starvation when they retrace their steps. These are stores for direct use, but would not be called accumulations of property, because the whole is every year reduced to nothing, and he who was the owner is not a particle the wealthier when he has consumed his store.

When a man, however, clears land, sows, reaps, and at the end of the year has saved some grain, after having fed and clothed his family, repaired his implements, supported his cattle, and paid his hands, he has really increased his values, he is wealthier. If he exchanges these saved values for timber, builds a sawmill, and carries on a prosperous business, he again increases his values, which he may invest in building a vessel. As ship-owner he earns the freight; he may lay out his savings in cargoes which make a profitable return, for which he may erect a factory, where he produces calicoes; and, by the time he retires from business,

wrecked Fury on the shore of Prince Regent's Inlet, which afterward saved Captain Ross and his gallant crew, was a *cachè* on a large scale.

he may be a wealthy man, although his original cattle are dead, his vessels broken up, and his factory may be sold, the produce of which he may have invested in canal shares, government stocks, or loans to individuals, who pay him interest. It is this increase of values which we chiefly call accumulation of values or property. It always implies a saving at the end of the year over and above the values owned at the beginning. As it is with individuals, so it is with whole nations. There is, in point of fact, no such thing as national wealth; this is merely a term for the aggregate wealth of a certain number of individuals.

Exchange can exist only in an extremely limited degree without accumulation. Had not the fisherman, whom we have chosen for illustration, previously accumulated values, he could not have offered them in exchange for the labour of the young man whom he employed to work for him.

By saving and accumulating again, and prudently continuing this process, he may succeed in saving so much, that the possess-

or of a patch of land, which he first occupied, and lawfully so, because it belonged to no one, and which is now his, because cleared by his labour and used for his benefit, may consider it a fair equivalent for his own property. The fisherman may desire it on account of the bananas which grow upon it, and the first cultivator may desire more his accumulated grain, in order to make it productive in some new land which he means to bring under cultivation. The banana land becomes truly the fisherman's own, because he has given for it what was absolutely his own, and the man who bartered it to him had a perfect right to dispose of it as he thought best.

The fisherman may now, with the stock he has saved already, and the assistance derived from those who exchange their labour for the surplus of his industry, reap, when finally the harvest comes round, so much that all the seed is replaced, and that, besides, he may maintain his family and hands until another harvest takes place, but no more. This would be a lamentable state

of things, for everything must remain at a stand; no new land can be brought under tillage; the labourers must not marry, for, should they have children, they must starve. Everything that can be saved is already consumed by the existing members of the household; his own family must not increase, nor will they have anything to eat, if, during a bad season, the crop should fail; no increase of comfort can take place, and, of course, the time of no member can be spared from the fieldwork; the young ones cannot be taught, nor can they be well attended to; a protracted sickness produces immediately a serious inconvenience in the support of the family; a deficient crop is followed by starvation.

We find, therefore, actually that, with some tribes in the lowest stages of civilization, and with whom no accumulation of values takes place, the old and decrepit, or those that are sick for a long time, are abandoned to their fate, or more expeditiously killed.[1] It is possible that this was the

[1] I do not remember having met with a more detailed ac-

universal custom in the earliest times. People would then be driven by starvation to argue, as now shipwrecked people sometimes reason, when they throw those overboard who, too sick to aid in the possible escape, nevertheless consume of the common and scanty store of provision, and thus only contribute to lessen the means of eventual safety.

If, however, the individual, now become a farmer, can contrive to reap so much that, after having replaced his seed-corn, paid his hands, and laid by a sufficient store for his family, a surplus still remains, he may exchange part of this for live-stock tamed or raised by others, while he himself follows the plough, and thus he may encourage and reward their industry, and incite them to

count of all the wretchedness, continued suffering, brutality, and mental depravity, resulting as the necessary effect of an absence of saving and accumulation, than in Horace Holden's Narrative of the Shipwreck of the Mentor on the Pelew Islands, and his Two Years' Residence with the Inhabitants of Lord North's Island, Boston, 1836. The veracity of the author seems never to have been impugned, nor is there anything in his book which would awaken suspicion.

new production. Another part he may offer to those who have not yet succeeded in saving and accumulating any values for themselves, and with them he may clear more land, and again save and accumulate values, and thus extend gradually the territory of civilization, increase the capacity of the earth to support the human family, and furnish to others the means of beginning in their turn the important career of saving and accumulating.

The chief employer is not the only person interested in his own saving and accumulating of values. Those that have not yet any implements, live-stock, or assistant hands to begin cultivation for themselves, are deeply interested in it; for without it the employer could not offer them anything for their labour. Those that produce other articles are equally so, because if the farmer, whom we instance, consume everything he produces, nothing will be left which he can offer for the products of others. There is nothing but our own product with which we can obtain the products of others, or, in other

words, wherewith we can pay them for their labour and industry.[1]

If men had not saved and accumulated values, or saved and increased property, they could never have elevated themselves above the hunter's and fisher's life, the lowest of all the stages through which mankind must pass before populous and well-organized states are formed. Food, in that state, is exceedingly scanty and precarious; the body poorly protected against the inclemency of the weather; diseases rage with great violence;[2] and the thin population which exists is hardly otherwise employed than the

---

[1] Even when we pay money for the product of another, it is always essentially product which purchases product; for that money itself was first obtained by giving a product for it, the farmer his grain, the shoemaker his boots. In cases of salary it is also the same. The salary comes from the taxes of the people, and the people obtain the money in which they pay the taxes for products of their own. There is nothing that can pay for produce except produce of others. The more, therefore, is saved from consumption, and is accumulated and used reproductively; in other words, the more wealthy people there are in a community, the better for all.

[2] Nearly some whole tribes of our Indians have at times been extinguished by the smallpox or a famine.

animals, namely, in constant quest of food. The mere hunters or fishermen, such as we find, to this day, the Tschuktschi and Jakuti in Northern Asia,[1] have some property indeed, for man cannot live without it; but it amounts to so little, that with them the idea of property cannot acquire any great importance.

The next step man makes is, that he no longer kills every animal which he is desirous of possessing, but he catches, tames, and breeds animals; he becomes a *nomad*, and property presents itself in the more substantial form of his herds. He still moves from place to place, yet he no longer roves daily. Property may now begin to accumulate, and civilization to dwell with his horde. The herds are more enduring than the killed game; property begins to present itself substantially and respectably. The unsettled state of the nomadic life is, indeed, not propitious to civilization; still it is far more so than the hunter's life; and, so far as the nomadic life is more civilized, it is

[1] Wrangell's Narrative.

mainly owing to a greater amount of saved, accumulated property.

Individual rights, however, cannot show themselves with very great clearness in the nomadic life. The patriarchal principle, unfavourable to an essentially political civilization,[1] necessarily prevails, and the members of a tribe are uninterruptedly in close contact, sharing all dangers, toils, and enjoyments, and depending, in what is most important to them, the pasture of their cattle, upon a strictly common stock. All the descriptions of travels among nomadic tribes, of which our literature has been of late furnished with many interesting ones, prove the truth of these remarks.[2] They hold, likewise, in this essential point, if we apply them to those wandering tribes who live almost exclusively upon fish, and are not generally included in the nomadic tribes, such as inhabit the most northern regions of Asia.

[1] I have given my views on this subject more at length at the beginning of vol. ii. of Political Ethics.

[2] Gutzlaff, in the before-mentioned work, gives some very interesting proofs of the above remarks, with reference to the nomadic tribes under the Chinese superior sway.

Civilization may be said to take a fair start only when man begins lastingly, and not for a season merely, to cultivate the ground, and when he establishes enduring individual property in the soil. He then becomes settled, and, on that account alone, a great many values are saved, and become the foundation for farther production and acquisition of values, which would have been wasted in the roving or nomadic state. Landed property inspires a greater interest than that which is movable, or, as Lord Kames expresses it, the affection for property shows itself more intensely. When man tills the ground, in other words, when he no longer depends upon the fruits which the forest offers accidentally to him, or on the pasture which nature furnishes spontaneously to his cattle, but when he roots out the plants which give no food, and obliges the soil to bear the nutritious plants he stands in need of, and to produce them in increased quantities by his own improvement of the soil, then only a denser population, so indispensable for civilization, becomes possible; exchange and

intercourse, mutual reliance and support, are greatly promoted; manners become milder; fruits instead of beasts or men are sacrificed; individual rights are more and more acknowledged; more than mere safety of life and limb is thought of and sought for; man rises in his own estimation, because he is no longer a mere accidental unit of his restless nomadic horde, but he feels himself, with his stationary property, or the important right and capacity of acquiring it, an integral part of society; indeed, it may be briefly expressed, because the wandering horde changes into an organized community; and, finally, those political societies arise which we call, more properly, states,[1] or political societies with fixed territories.

[1] In our philosophical arguments we often use the term State in a wider sense, meaning thereby any political society which, by authority, protects and exacts the relations of Right; which administers justice, both in protecting what ought to be protected, and in deciding between conflicting claims or interests; and which, in order to do this, prescribes laws; but more commonly we mean by a State a political society with a fixed territory. A nomadic Tatar tribe, with its well-acknowledged chief, nobility, courts and laws, and distinct ob-

More stable, organized, and regular governments grow up out of the various relations of the individuals of this denser population with one another, and with the soil they inhabit and cultivate. The government does not precede these states or societies, and it does not make the property. Property is not the creature of government; but if by government we understand that system of protection, authority, and administered justice which naturally grows up, the stronger and the better defined, the more settled the society becomes, then property precedes government, and the latter arises out of the former. It may be maintained,

---

ligations of the individual, as well as a certain tract of land over which it moves in the course of a year, according to the seasons, is a State, in the philosophic and comprehensive meaning of the word; but it will hardly be called so in the usual adaptation of the term. This distinction has arisen from a correct feeling. Men have seen and long felt the difference between the incipient political society scattered as hunters over a vast and ill-defined ground, in which in itself they take no interest, but only in the game upon it, or a moving horde on the one side, and a stationary political society, with a fixed territory and a deep, manifold, and pervading interest in it on the other.

therefore, with far greater truth, that government is the creature of property.[1] There is always that consciousness in the bosom of man that he has an undoubted right to appropriate to himself that which belongs to no one; and that, what he produces by his own labour and with his own capital, or previously saved values, is his own; and he invests what is his own in the tillage of the ground long ere a denser population makes a regular and permanent government necessary or possible.

When this comes gradually to be established, men are already abundantly in possession of property of all sorts; usages respecting its possession and transfer have already been established, and become that bulk of imbodied feelings from which the common law of the land is gathered, or which is the more distinct acknowledgment of the usages and feelings of the people. Government, being the acting exponent of the

[1] The fact, that at later periods landed property has frequently been parcelled out by a government consisting of conquerors, will be considered farther below.

opinions of the community, consolidates and aids in the farther development of those usages, and of property itself.

It is singularly surprising if an American maintains that property is the creature of government; yet it is not unfrequently done. If this be true, British Parliament had an ample right to tax the colonies, and the whole struggle of the Revolution, instead of being a glorious contest for justice and liberty, was a most senseless one, because our forefathers avowedly drew the sword and plunged into a very doubtful war, not because they complained of being over-taxed—Lord North was willing to give up everything except the right of taxation—but because they denied that Parliament possessed the right of taxation. Chatham, therefore, the champion of the American colonies, said boldly and nobly, in his famous speech on January 20th, 1775, which Franklin, who heard it, extols so highly in his Memoirs: "Property is private, individual, absolute;" and, speaking of the supreme power of Parliament, he adds: "But this su-

preme power has no effect towards external taxation; for it does not exist in that relation; there is no such thing, no such idea in this Constitution, as a supreme power operating upon property. As an American, I would recognise in England her supreme right regulating commerce and navigation: as an Englishman by birth and principle, I recognise in the Americans their supreme unalienable right in their property; a right which they are justified in the defence of to the last extremity."[1]

We find, indeed, several tribes who hold land, either as hunting-grounds, pastures, or even for transient tillage, in common. But they do so in the two first cases, because the land itself is of no value, or only of a common one; the transient benefit alone is of value; and in the latter case people have no lasting

[1] Chatham's Correspondence, vol. iv., p. 382. That great man said in his rejoinder: "I maintain, and ever shall maintain, that the right which God, Nature, and the Constitution has given a British subject to his property is invariably inalienable without his own consent, and no power under heaven can touch it without that consent either implied or expressly and directly given."—Correspondence, vol iv., p. 385.

individual property in the soil, because they have not yet a lasting interest in it.[1] Their knowledge of agriculture is yet very limited; any land will do for their hasty crops; their manners are not yet sufficiently freed of the original disposition to rove. Such tribes must be considered as in a state of transition, from the nomad or rover to the cultivator of the soil. Men in this state are interested in the soil only for a passing season; but, so long as they are actually interested in it, so long is there no community of property; they till each one the assigned or chosen space for himself. Man always appropriates that which sufficiently interests him, and, accordingly, he excludes others.

So far as man accumulates property—not in order to hoard it, but for the purpose of investing it for farther production—so far only advances he in the career of civilization. The improvidence and wasteful disposition of savages, of men in the hunting

[1] It may be proper to cite here a passage of Tacitus, Germania, 26, which will be fully quoted in a subsequent part of this volume. It supports the remarks in this page.

and fishing states, and of nomads, are well known; and as they contemn labour, while by industry alone accumulation of property can take place, they are found to remain in their subordinate state. The contempt for labour, and also for property beyond a few personal articles, in our Indians is signally deplored by the missionaries and government agents as the most serious obstacle in the way of civilizing them;[1] and a distinguished traveller in Arabia Petræa, speaking of the contrast between the high cultivation and civilization of parts of it in ancient times, and their desert state at present,

[1] Mr. Schoolcraft, well known for his intimate knowledge of Indian affairs, says, in his Annual Report of the Acting Superintendent of Indian Affairs for Michigan, made to the Bureau of Indian Affairs at Washington, Detroit, 1840, page 15: "Our Northern Indians are averse to manual labour in all its forms, but to no species of it are they more so than to agriculture; to fell trees, make fences, grub, plough, sow, and reap, are employments so uncongenial to them, that it is with great difficulty that they can be induced to give even a partial attention to them." The author continues to say that sending farmers among them, as is done with mechanics, and thus to win them gradually for civilization, must remain one of the main steps for their improvement, however great the difficulty may be.

as well as of the hopelessness of elevating the Bedouin Arab, gives as the cause of these evils the utter contempt of those wayward children of the desert for property and the means of acquiring it. They will rather suffer any inconvenience than degrade themselves, as they hold it, by labour.[1] One of the great causes of the superiority which the white race has acquired over all others is, that labour has risen to honour, and that industry has at length been closely wedded to science and knowledge. The history of labour, and especially of its increased respectability, is one of the leading threads which form the warp of the rich tapestry of European civilization. Through the increased respect for labour and industry alone was it possible to save that immense amount of values of which civilization stands in need.[2]

[1] De Laborde, Journey through Arabia Petræa to Mount Sinai and the Excavated City of Petra, 2d ed., London, 1838.

[2] It has been the endeavour of the author to show the just foundation of the right of property, and that its origin is independent of government. Whether he has succeeded or not, it will be granted that a theory which acknowledges absolute rights of property must, in its nature, lead to greater stability

than that which founds all right, all property in "convenience," a term which allows of all possible changes, and, above all, leads to that slavish and abject doctrine that all property is a creature of government, a theory in which absolutists, both monarchical and democratic, have often agreed. The author, therefore, was somewhat surprised to find that a member of Parliament, reported to be a prominent Liberal, stigmatized in the Commons, on January 29, 1841, the theory of property and personal production, which the author of this volume indicated, in his Letter to Mr. Preston on International Copyright, as "Watt Tyler doctrine." Of course the member could not stop there; he broadly pronounced "that there is no such a thing as natural right." This is the most disorganizing absolutism, whatever crest its coat of arms may have, crown or cap, that can be preached. That such a member can call himself, and can pass for a Liberal, shows a great confusion of ideas.

These remarks have been made on the presumption that the debates on Sergeant Talfourd's Copyright Bill were correctly reported in one of the leading London papers.

III.

Right of Transfer. Grant, Sale, Bequest.

The nature of property, which implies free disposal of the thing owned, as well as the right of exchange, of which we have treated, sufficiently prove the right of transfer by grant and sale. The latter is nothing more than exchange. It will nevertheless be necessary to consider more in detail some points relating to this subject, and especially the right of bequeathing.

I must have the right to give away or exchange what belongs to me; if not, it does not wholly belong to me. So far as this right of transfer relates to the products of our own labour, and to a transfer during the lifetime of him who transfers, this right has generally been acknowledged by all philosophers, without any farther limitation than the general one, that the individual

cannot be allowed to do anything which works manifest injury to others, because man must live in society, and the actions of the individual must accommodate themselves to this supreme law. The rights of transferring property in land, however, and of transfer by testament, have not been admitted so unanimously. Their propriety has often been doubted, or they have been declared to consist in a mere municipal arrangement; to be an absolute invention of government, not founded in the law of Nature or the universal feelings of mankind, even by persons who did not question a perfect and complete right of property in a man's gains.

There are various reasons for this distinction, of which a few only shall be mentioned at this stage of our inquiry. One of them is, that philosophers, and among them very great ones, wrote, as indeed it has already been stated, before Political Economy had clearly shown that a product of our labour is always the joint effect of labour, appropriation, and accumu-

lation of value reinvested in the new product. This want of a clear perception of all the component parts of a product made the product of industry, such as an axe or a box, appear radically different from an appropriated and cultivated piece of land. Another reason is to be found in the erroneous supposition already mentioned, that governments preceded and made property; that, therefore, all a man accumulates, or the land which he cultivates, he holds as a boon or at the mercy of government, and that his government did quite enough if it allowed the individual the enjoyment of this property, which, owing again to an erroneous notion already mentioned, was always considered as so much withheld from others during the possessor's lifetime.

This view is closely connected with the error that there was an original community before property was divided. Lastly, it was maintained, and still is so at times, that transfer and accumulation of property which proceeds by inheritance cannot be proved by any sound logic, and is a violation of all reason.

Right of Transfer by Bequest.

The adversaries of this right have maintained that, Waiving the fact that property is a boon of society, the privilege of bequeathing is against all reason and the first principle of justice, which is, that there shall be no right without a corresponding obligation, and no obligation without a corresponding right. But by the right of bequeathing we actually give a right to a dead man, or to one who can have no longer any obligations. How can a being, no longer existing in this world, and, consequently, a political nonentity, have a right to influence still the actions of the living? A right must be attached to some person or persons who exist. If, then, we allow such a thing as laws of inheritance, it is merely a gracious act of ours, the operation of which we may stop at any time. The law of inheritance is strictly municipal and positive; a law which exists nowhere unless directly enacted; it is no law founded in nature.

These remarks may have some appearance of plausibility, because they may appear to involve strict logical reason. Nowhere, however, is such apparent strictness more dangerous than in arguments on political subjects. I shall be content if it can be shown that the laws of inheritance are the effect, as well as a recognition, of the distinct and best feelings of man, and that they operate essentially for the good of society.

First, it will be remembered that, if our theory is correct, government is far from originating my property. I make it, and no thanks are due to any one for it; it grows in a hundred cases without the aid of government; in many cases actually in spite of government; and one of the chief duties of government, one of the main ends for which it exists, is that it protect me in my lawfully-acquired property. For this service government takes already part of my property, in obliging me to pay taxes. Nowhere does government directly increase property; indeed, it cannot. All that gov-

ernment does directly, is to lessen it;[1] for, whatever I pay in taxes, I would have saved and employed in reproduction. Nor do values once paid in taxes return as new values to the tax-payer.[2] Government makes, indeed, an indirect and very important return for my taxes, by protecting me, by administering justice and maintaining the peace of the land, and by thus vastly increasing the

[1] Extraordinary grants of government, especially after conquests, are, of course, not spoken of here. They are no increase of property.

[2] If government spends the money it receives in taxes, directly or in the shape of salaries to its officers, these values can never be obtained by the original tax-payer except he pay new values given in exchange for it. Government may order the values received in taxes to be spent in digging a canal, but the tax does not flow back to the people; they must first dig, that is, give a day's labour before they can obtain a day's wages. If the people, therefore, must first work a day to produce the tax, and an additional day to receive its equivalent, it is correct to say that the value of the tax does not flow back to the people. I speak here, of course, of taxes paid for the support of government only. Such a tax as is levied in Philadelphia for the water-work is different. The city government, in this case, has become the simple agent for society to execute a certain work. The water is purchased. So may two or three families purchase sugar in common, to have it cheaper or better, and divide the expense.

value of property and labour; but this is the very reason why people pay taxes and despoil themselves of hard-earned values. Without this indirect, yet highly important return on the part of government, its costly maintenance would be outrageous robbery.[1]

If we consider the subject of inheritance historically, we find invariably, not that it exists from the beginning clearly and substantially, and vanishes with the progress of civilization; but that, on the contrary, it exists originally in an incipient stage, and develops itself more clearly with every progress of civilization, in precisely the same degree as the whole institution of property

[1] Vessels may sometimes be seen in the harbour of Halifax, Nova Scotia, laden with eggs brought from the coast of Labrador, whither many migratory birds proceed during the season of incubation. How has government made that property? How does government make any merchant's property, who does not gain it in consequence of government restrictions on imports or exports? How does government make the property of the farmer in the West, who first paid his values for public land—an equivalent the benefit of which society enjoys—and who improves the land, all the time paying part of his own property for the peace in which he is allowed to pursue the agricultural acquisition of property?

becomes more distinct and definite. There must, then, be some natural principle on which inheritance is founded, which becomes more distinctly developed the more civilization develops our true nature, or that in us which essentially distinguishes us as men.[1] It will not be difficult to find this principle, and the perfect right of bequeathing.

As to the right.[2] Originally wills are made by word of mouth. If a man is at the point of death, he says to those who are around him in what manner he wishes to dispose of what yet is his, and of which he has, therefore, the full right of disposal. Most codes still acknowledge, under certain circumstances, these oral or nuncupative

---

[1] This is, in my opinion, the only way of finding out what is essentially natural to man, but not subverting the true order by assuming the savage state, in which almost everything essentially human, and, therefore, truly natural to man, is stinted and stifled. I have endeavoured to develop this truth in my Political Ethics.

[2] The difficulty of this subject may have been increased by the fact that the right of inheritance was far more frequently discussed than that of bequeathing.

wills, as they are called in law. A soldier dying on the field of battle may, according to the Roman law, make his will in this manner. With a sufficient number of witnesses around him, and under certain circumstances, a dying man may thus bequeath his property in Austria. The right cannot be doubted. The dying man disposes of what is yet his own. The danger of these wills, however; the inability of the dying man calmly and prudently to consider all circumstances; the facility with which those around him may influence him to the detriment of the absent ones, or may misrepresent him; and the danger that the priests administering the last rites would use their privilege for their own benefit or that of the church, have induced the various states either entirely to abolish the nuncupative wills, or greatly to limit their power.

A written will is substituted, but it means essentially still, "I write this now, when possessed of clear intellect, and with the advice of proper persons, that it may serve as my last declaration and will when I draw

the last breath." As it is written beforehand for caution's sake, so it is opened with the necessary precaution to guard against fraud. Still, all these forms and precautions are substitutes for the oral testament.

It is found by experience, and corresponds to the feelings of the whole community, that, unless there be peculiar reasons for acting differently, parents will leave their property rather to their children than to others; relations rather to their kindred; and as it is felt, moreover, that government or society has no special right whatever to a man's property, which has been lawfully earned and justly accumulated, wise governments acknowledge this feeling by distinct laws for all cases in which wills are wanting, and settle the order of heirs according to the distance of relationship, that is, according to the presumed affection of the departed person. In doing this it does what a true government ought to do. It is the great law of liberty to allow things fairly to take their own course, and to protect where rights thus grown up demand it. It

is right that the laws presume, where there is no will, that the deceased would have left his property as seems to be most natural for him to leave it. To presume anything else would be tyranny. The despots, whether monarchical or democratic, are always pleased to consider everything in the state as made by the government—dependant upon them; and that they have a right to meddle with all things. The principle of freedom is to leave as much as possible to spontaneous action, and to confirm by law what has thus already grown up out of the free action of the people.[1]

[1] Magna Charta confirms that the goods of every freeman shall be disposed of according to his will and testament; and that, if he die intestate, his heirs at law shall succeed to them. In doing this it does not create the law of inheritance. This had grown up from times immemorial; but it had often been invaded, and thus become necessary to be distinctly pronounced and confirmed, just as the provision of the same charter that "We (the king) shall sell, delay, or deny justice to no one," does not create the administration of justice which is natural and indispensable to all human society. Nor are the heirs at law, spoken of in the first-mentioned provision, persons made heirs by a positive law, but the heirs whom the feelings of men designate as such, and who had been considered as the proper heirs long ere a positive law confirmed them as such.

The law becomes still more confirmed when men perceive that an undisturbed right of bequest is one of the greatest incentives in men to produce and accumulate, and thus to benefit the whole; that it engenders noble feelings of disinterestedness and the invaluable habit of self-dependance, while uncertainty of the right of bequest, or its total absence, prevents accumulation, and thus retards civilization,[1] begetting timidity, dependance, and selfishness. For where you destroy the family bonds and family incentives, it is in vain to hope that a feeling of general patriotism for the community at large may be made a substitute to incite, not to single brilliant deeds, but to obscure actions returning with their daily drudgery, such as are involved in the accumulation of property with all persons who do not meet with so great and rapid a success that this alone would be a

[1] For instance in Asia. The unsettled inheritance and general insecurity of property in Burmah have prevented the accumulation of value in that rich country to such a degree that money is worth five per cent. a month.—Sangermano.

sufficient incentive. Insecurity of property, the thought "who knows what will become of my property after I am dead," make the Asiatics proverbially selfish. The fiercest and most loathsome egotism would follow from an adoption of Plato's destruction of the family; and where we destroy the laws of individual inheritance, we must effectually destroy the family; for if property does not go to wife and children, who shall take care of them? of course, the state. We must have, then, some sort of Spartan republic. Indeed, since the family cannot exist without individual inheritance, and modern civilization and liberty depend essentially upon the family and the perfect protection of the individual, it may be safely said that modern liberty cannot exist without individual inheritance.[1]

There is still a higher view which we may take of the right of bequeathing. It

[1] The great importance of the family and of the individual for modern liberty, and the difference of the latter in this regard from the liberty of the ancients, has been dwelt upon at length in the Political Ethics.

rests on these two points, that a just regard for man's dignity prompts us to adopt some prospective and retrospective measures respecting him, although he does not yet exist, or exists no more; and that we are bound to honour feelings of great importance to mankind, by imbodying our respect in positive laws. Yet none of these measures may be deducible from the postulates of politics with geometrical strictness or a logical symmetry.[1] The protection af-

[1] There can be no doubt but that every good and pure citizen is bound to assist in bringing offenders to condign punishment, and especially to state, if called upon as a witness, all that he knows of the offence; and, farther, that the welfare of the country and society at large is superior to that of the family. Yet, in spite of these truths, most, perhaps all, the lately enacted codes exempt near relations from this painful duty, on the ground that kindly feelings towards relations are of great importance to society, and the citizen ought not to be forced to violate them. Other codes distinctly exempt citizens from the duty of informing against a committed crime, on the ground that our best feelings, which ought not to be outraged, revolt in many cases against informing. In short, we do not deal in politics with an abstract notion called man, but with a living compound of body, mind, affection, and appetite. "Civil knowledge is conversant about a subject which, above all others, is most immersed in matter, and hardliest reduced to axiom."—Bacon.

forded by the laws to the unborn infant is perhaps the most striking instance that can be given. To have personal rights, there must be a person, that is, a human individual with reason and responsibility. Animals have no rights, having no responsibility.

Still we protect man when not yet born and only forming a part of the mother; and we punish offences of that mother against part of herself when she uses violence against her own fruit. We allow no one to kill an idiot, although he may have sunk below the capacity of superior animals, and be without any responsibility. We respect the memory of a man, and, in most civilized countries, actions of slander against the honour and reputation of a deceased father may be sustained; yet the father, no longer living, can no longer be injured, and, properly speaking, where there is no injury, there can lie no action.[1]

[1] The sons of Fouché, duke of Otranto, gained an action against a publisher for issuing a book in which their father was called a traitor upon unsustained reports. If I remember right, the action was brought only for the suppression of the sale of that book.

In the case of bequeathing, or of leaving the property to the nearest relations if no will is made, we honour, even after death, the right which the individual had when living, of freely disposing of his own, one of the most precious boons of freedom. We confirm and elevate thereby the institution of the family, which is one of the primitive fountains of all civilization; and, by respecting the will of the deceased, we show, as well as by the protection of rights before the individual is born, that we acknowledge the continuity and importance of the political society to which we belong, as an organic whole, of which we are but passing members, and not merely as an accidental mass of huddled units.[1]

[1] The question, is the State nothing more than an association for the purpose of mutual protection against bodily harm, or is it a society with its peculiar character and a high destiny of its own, is of radical importance in discussing the political relations of man. I have repeatedly treated of it in my work on Political Ethics, and will only add here that the subject of Bequest is of very great importance in this politico-ethical point of view, and of far deeper and more philosophical import than those believe who assume that nothing is philosophical which cannot be proved according to the most apparent and the grossest interests of men.

Some additional Remarks on Accumulation, and on Security of Property.

The three elements, or, rather, factors of that product which we call national wealth, or the aggregate of all values possessed by the individuals of a nation, are industry, frugality, and security. Without either of these the wealth of a nation will not increase; and to their increase, within the last two or three centuries, are owing the vast increase of diffused wealth of the Western race, the great amount of capital possessed by that race, which other nations of antiquity have never acquired, and the elevated standard of comfort of the great mass of people.[1]

[1] Many declamations are made on increased luxury and universal ruin. That peculiar circumstances at times produce evil habits of luxury and dissipation no one will deny; but none acquainted with details and history will gainsay that habits of frugality have vastly increased, while, as one of their effects and most desirable blessings, the universal standard of comfort has been greatly heightened. The waste during the many former court-feasts, even of the smallest courts, and the prodigal manners of a great part of the nobility, are well known to the reader of works which contain historical curiosities, and contrast strongly with the great frugality, if we speak compar-

Without industrious exchange on the one hand, and security of property on the other, property cannot accumulate to any great amount; yet, we have seen before, it is only accumulated values or capital which can pay for the personal labour of those who, with sound limbs and a fair skill, are desirous to work, and, if possible, to save of their wages some small amount, which they, in turn, may invest productively, and accumulate as their property.

It is universally acknowledged that there is nothing on earth which can pay for labour except capital. All those, therefore, who have not yet acquired lasting property, are deeply interested in the increase and farther accumulation in general; the poorer a man

atively, of modern courts. Articles which but a century and a half ago were objects of great luxury, for instance, silver forks, silk gowns, tea, or fine cloth, are now common; but we can afford it, owing to the cheaper production and greatly more accumulated values. Mankind are richer. Still it is not denied that fashion, like a ruinous tyrant, may at times, in certain places or whole districts, counteract all industry, and produce disastrous effects, as it cannot be doubted that in some parts of the United States extravagance in dress, furniture, and viands lately defeated very palpably the effects of industry.

is, the more important is general accumulation of wealth to him. His personal services cannot be of any use to him, or any one else, if there be not sufficiently accumulated capital beforehand to pay for them. Every obstruction to these accumulations or their protection, every dissipation of them, every withdrawal of them from the country he lives in, is necessarily a material injury to his only means of gaining a livelihood, and the ruin or spoliation of the classes that hold property is infallibly followed by the suffering and degradation of the classes which have no property; by the poor and the destitute.

Every disturbance of property is a proportional blow to industry; and as, on the one hand, the laws of individual inheritance are the greatest stimulus to the accumulation of property, one of the most successful means to render the individual sharpsighted in pursuing industry and accumulation, and the best safeguard against the dissipating of values unproductively; so would a law against individual and family

inheritance in one country have the infallible effect of driving capital out of that country into others where it would be protected. The industrious would thus be deprived of the means which makes their industry available.

Property may be rendered insecure in a great variety of ways; by bad laws, by the absence of laws, by war or riots; by pending measures which threaten to interfere with the individual possession of property; by an interference with free exchange of the products of the pursuits which each individual considers most fit for his situation, talents, and skill; by the elements, and by anything which disturbs the fair trust and confidence that we, and our children after us, shall enjoy the fruits of our endeavours. If exchange, accumulation, and inheritance are disturbed by impending or actual measures, and in general by distrust in the future, it appears from the preceding passages that no farther increase of capital takes place, no increase of population, no advance of civilization; the union of men, depend-

ance of one upon the other, trust and credit, must be disturbed or wholly rooted up, as we see it in such fearful times as the French revolution or the Roman empire;[1] and, lastly, machinery cannot be invented and used on an extensive scale in such a state of things.

[1] The unspeakable misery endured during the Roman empire, and the retrograde movement of Italy during many periods of those five centuries, were chiefly owing to the immense dissipation of values by war, neglect of cultivation, breaking down of roads, extinction of herds, and by the insecure state of inheritance. If men do not know what will become of their property, they become reckless of their goods, as we find them reckless of life in most periods of extensive pestilences. Sismondi's Fall of the Roman Empire furnishes many a material for this reflection. The Thirty Years' War threw back Germany many years, and sapped her wealth to an almost incredible extent, civilization necessarily following the retrograde movement of property. The destruction of values, accumulated during centuries, in that sad period of German history, the abandonment of culture, of roads and mills, and the recklessness engendered by the insecurity of property, appear with their appalling truth by a study of detailed accounts and chronicles. A country sinks to its lowest misery when protracted fanatical wars break up property and the means of supporting labour, to such a degree that the mass of the people find it easier to join the destroyers of the only lasting support of those that live by their labour; thus swelling the tide of general destruction, and diminishing still more the existing means of support. The French religious wars

Yet machinery is the greatest means of saving labour, or of using far less labour to effect the same product, and of using that labour which now is saved for the production of other articles or the purchase of other objects. Machinery thus elevates the standard of comfort, respectability, and morality, of knowledge, science, and civilization in general, and makes it possible to support a far greater population.

Without machinery every populous country (for even then population will, in most cases, slowly increase in the course of centuries) must sink into that state in which we find China, where almost every one of that enormous population of three hundred and sixty millions of human beings is most laboriously working, far more so even than the industrious white race in Europe or North America, merely to obtain the scantiest food and simplest raiment,[1] and in which no values can be saved for hospitals, asy-

afflicted France in a similar way. Sully's Memoirs contain many proofs of this.

[1] Henry Ellis, in his Journal of the Embassy to China un-

lums for the blind or deaf and dumb, or for extensive scientific pursuits, and in which every public calamity immediately disturbs the nicely-balanced state of things, and exposes thousands upon thousands to starvation.[1]

When a machine is invented many people are thrown out of employ, and very frequently exposed to suffering or even wretchedness. No one will deny the fact; but this is an inconvenience which the state ought to strive to counteract by wise measures as much as possible. It is no argu-

der Lord Amherst, mentions several times the great many eating-houses in every Chinese city, where the labourers obtain their meals for tickets in which they are paid by their employers, and in which frequently the whole wages consist.

[1] See Gutzlaff in many places. Gutzlaff likewise mentions repeatedly that millions and millions are ready to work simply for their bare subsistence upon rice. It would seem that, besides the many more advantageous circumstances in which the American farmer is placed, his more rapid accumulation of wealth than that of the Chinese, although the American consumes far more, must be in part attributed to his infinitely more perfect implements, and implements are in their character machines. At least so it appears if we examine the agricultural implements in Mr. Dunn's Chinese Museum, and then enter a shop where our farming utensils are sold.

ment against the immense advantages obtained by machinery for the poorer classes themselves, and, moreover, it is no argument which applies solely to machinery, but would hold against every sort of saving labour.

Yet what is the whole course of industry but a continued exertion to save labour? If we should use the bare hands to till a field, far more people would be necessary than now, when we have the spade and the plough. These people, however, would live wretchedly, and incomparably less soil would be under cultivation; consequently, far less people supported than at present. Before regular mails were established, there were periodical messengers between Paris, where many German youth pursued their studies, and several parts of Germany. These messengers were necessarily thrown out of employ when that vast labour-saving machine, the post establishment, was instituted. Yet how many millions of people now find employment directly or indirectly through the post establishment for

the benefit of human society? How much does the Post increase industry and the value of all products? Roads are labour-saving machines, and, when first made, they frequently throw many people out of employ. We find that there were many riots in England under the administration of Walpole, because application had been made to Parliament for the establishment of an extensive system of turnpike roads. Now, however, a highly-distinguished writer, Mr. Dupin, shows, as one of the reasons of England's superior wealth, the immense extent of roads and canals in proportion to her territory, if compared to other countries.[1]

[1] Charles Dupin, Productive and Commercial Forces of France, Paris, 1828. The same argument might now be applied to the introduction of railroads. The rent of a great many inns has been lowered by them, and many thousands of horses have been thrown out of employ. But all the corn, consumed formerly by these horses in order to transport a far smaller amount of goods and passengers in a much longer time, can now be used to feed an additional number of men, and the traveller can do the business, in many cases, in a day, for which, but sixty years ago, he would have wanted a week. He can therefore use the rest of the week in farther pursuit of industry.

There is probably no more striking example of the benefit bestowed upon mankind by machinery than the invention of the printing-press. A single work employed many more hands, or the same number for a far longer time, when books were copied; yet thousands of people are now employed by the press where but tens found a living by copying, because machinery lowers the price, and, consequently, increases consumption and demand. It is the same with the cotton-mills. A piece of cotton goods requires more labour if produced by the hand-loom; yet machinery has lowered the price of calico so much that millions can use it and decently dress themselves who before were doomed to go in rags; and this vastly increased demand makes the employment of hundreds of thousands possible in weaving it by machinery, while in our country it has increased wealth by the culture of cotton.[1]

[1] Our age is frequently called the age of machinery, not without a sneer, or in order to indicate that it is a peculiarly material, and not an intellectual one. But what is machinery, if not an evidence of the empire of mind over brute matter?

To recapitulate, then, machinery is necessary for an advanced state of society, and machinery requires accumulative property, which cannot accumulate without security.

What is the invention of James Watt but a most illustrious victory of mind over matter? What is Fulton's invention? If the employment of labour were the object, and not production, and consequent increase of comfort, peace, and civilization, it is clear that the Bostonians ought not to fetch their granite from Quincy, but from a distant place, in order to employ more labour. Why does every man wish to have a well in his yard? Because he desires to have the indispensable article water with as little trouble, that is, with as little employment of labour as possible. We have but to look around us in our nearest circles, and everywhere we find man most wisely and instinctively engaged in abbreviating labour. A book worthy of perusal in this as in many other respects is the Life of James Watt, by Mr. Arago, translated, 3d edit., Edinburgh, 1839. There are also London editions. Very judicious remarks on this subject are also to be found in R. Torrens, On Wages and Combination, Lond., 1834, p. 37 and seqq.

IV.

On the Supposed Original Community of Property.

In ancient as well as modern times it has been frequently supposed that there was an age when all things belonged to all men, and that originally the earth, and all that is in and upon it, was first given by the common Maker to mankind at large,[1] or claimed by the Reason of man as common property. When this idea was once adopted, the inference was natural that individual property had been introduced by violence

[1] The argument has also been used, that man, being a creature of God as well as all the other objects of creation, it results that all creatures are His, and man can have no right of property unless God gives it to him. He, however, it was maintained, gave all things to men, and no particular things to any particular men. The sequel will show that the author holds this theological view unfounded in Scripture, as the preceding passages must have shown that he does not consider it to be founded in reason.

and oppression on the one hand, or, on the other, by the lawful desire to obtain protection against this oppression, which had already disturbed the original, and, as it was assumed, happy community of property.

It is not always easy to ascertain what sort of community is meant when writers on the subject of property use the term. Sometimes their arguments would lead us to suppose that the prevailing idea of their minds is a supposed state of things when everything belonged to every one; at other times it seems that they mean a community of property within a certain tribe, clan, or nation, but a distinct separation of this bulk of property from that of other tribes. Again, we find speculations founded upon the supposed original community of property, but are not told whether it be assumed to have extended to all that man can claim as his own, to garments, implements, and weapons, to the produce of the chase, fishing, and the first rude attempts at agriculture, or to the possession of land only. Very frequently the latter only is supposed, and an

absolute individual right of property is conceded to the products of individual industry; yet, strange to say, we meet sometimes with arguments against the right of bequeathing individual property, of whatever sort this may be, deduced, nevertheless, from the hypothesis of an original community of property extending to the soil only.

Owing to the distinction made by former writers between the title of property in the products of individual industry and in land, it was either found very difficult to show how a perfect title of property could accrue out of a mere priority of occupancy of that which was believed to belong to all, or it was maintained that property in the products of industry is perfect according to the law of nature, but that property in the soil is absolutely made by municipal laws. Mr. Dugald Stewart, one of the latest English philosophers, makes this distinction.[1] But in doing so, it seems that he falls into that inconsistency in which all who before him

[1] Supplement to chapter second, book fourth, of D. Stewart's Philosophy of the Active and Moral Powers of Man.

have adopted this distinction have become entangled, that while he denies the original right of individual property in the soil, he forgets that he denies it likewise to any specific society—a tribe or state, which needs must have the right of property in the soil in order to make those municipal laws upon which, according to him, all individual titles of property can alone be founded.

The original question is not whether A or B shall be the possessors of this or that specific patch of land. The question is whether there can exist any exclusive title of property in the soil. It is very indifferent, as to this first question, whether the exclusive possession forever is granted to one, to a few, to many, or to a whole nation. Compared to the rest of mankind, the British nation is but an individual, and the exclusiveness of its possession of British soil, denying all other nations any direct share in its use and profits, is just as easy or as difficult to be proved as the exclusiveness of possession vested in an individual man. The exclusive, permanent, and lawful pos-

session, whether shared by several persons or not, is the only subject of importance in discussing the original title of property in the soil.[1]

The causes which have led man to presume that there existed originally a community of property, may be chiefly the following: The fact that, when men came to reflect on this subject, they actually observed that many tribes seemed to hold at least their landed property in common, namely, all those tribes which were yet in the hunter's or the nomadic state. Secondly, the poets, who imagined that there had existed a state of bliss, when men lived without labour or toil of any sort, and, of course, had every-

[1] If the views taken in the previous essays be correct, the distinction between the political right of a state or its government over a territory, or the right of dominion, and the individual ownership in the land, which is not a thing made by government, appears to be easy and clear. Government pronounces or sanctions certain rules of action for the guidance of the people who inhabit its territory, but it does not necessarily own all the soil by the title of property. If, on the other hand, property be the creature of government, the proper distinction, it would seem, cannot be made, and we must necessarily involve o rselves continually in inextricable difficulties.

thing in common, because there was no object in possessing anything in particular. Thirdly, that, as has been observed already, men are ever prone to ascribe distinct institutions to as distinct acts of invention; people, therefore, seeing that property was distributed among men, thought that at some time or other a division had taken place, and did not perceive that all property is the joint and gradual effect of the appropriation, production, exchange, and accumulation of values. Fourthly, the ownership in the soil, as it now stands, has in many countries, perhaps in nearly all the most civilized ones, actually arisen out of conquest, the breaking up of the Roman empire by invading tribes, when, indeed, a parcelling out of the soil, to a very great extent, by the conquerors among themselves took place. Fifthly, it was believed that the view of the ancients was strongly supported by the bible, wherein it was supposed it was distinctly said that originally all the earth was given to all, and that, consequently, if there now exists individual property, it must needs have been produced by

a preceding division. Lastly, there are certain peculiar qualities inherent in the property in land which promoted these views.

It has been already stated that the fact of a community of certain property, especially of land, existing with some tribes, or, perhaps, with most, at a certain stage of civilization, proves nothing against the right of individual property. The original question is, Can there be any such thing as individual property in soil according to sound reason and the immutable principles of right? The next question is, Is it expedient that land should be held by individual titles of property, like other things or moveables, or would it not be preferable to return to a community of property in the soil forming the territory of some extensive society, especially of a sovereign society or state? We have already seen that as to the matter of right, the property in the soil claimed by a whole clan or tribe is as individual a species of property, with reference to all the rest of mankind excluded from it, as the

ownership of land vested in a single individual is with reference to the rest of his tribe or nation.

The chief instances usually adduced to prove that individual property in the soil is a late abuse, introduced by violence or cupidity under the artificial systems of government belonging to degenerate times, are the common hunting tribes of the North American Indians; Cæsar's mention that private and separate property in the soil was unknown to the Germans;[1] that the patriarchs moved with their herds freely whithersoever they listed; and that even the regular system of the Jewish government, proceeding from the highest of all authorities, recognised, to a certain extent, a community of property, inasmuch as the Hebrew laws forestalled alienation and consequent accu-

[1] Comment., iv., c. i. At the time of Cæsar the Germans chiefly occupied themselves with grazing (on the common meadows and in the common forests). So soon as the ground was more industriously tilled, separate property arose; hence the fact that the Franks in Gaul had more separate property, allodium, because they were obliged to rely more on tilling the ground than on grazing cattle.

mulation of this species of property by the year of Jubilee, when "ye shall return every man unto his possession,"[1] that is, into his original patrimonial possession of land or family estate; for "the land shall not be sold forever: for the land is mine: for ye are strangers and sojourners with me."[2]

An attentive consideration of these cases will show us that the Indians, the patriarchs, who were chiefs or sheiks of wandering hordes, and the Germans in the early ages, always acted upon the principle that a man might convert to his own uses that which was before unappropriated, and claim it as exclusively his own. But man only appropriates that which has a value in his eyes: to the Indian, land is worthless excepting as a hunting-ground. He has individually neither claim nor possession, but the tribe to which he belongs claims the possession of large districts of country as ground on which its members are privileged to follow the game, and from which the hunters of other tribes must be excluded.

[1] Leviticus, xxv., 13–16. [2] Ib., xxv., 23.

When, however, an Indian tribe, like the Cherokees, becomes sensible of the superior advantages of the agricultural over the hunting state, and turns its attention to the cultivation of the soil, land becomes valuable in proportion to its fertility and the degree of labour bestowed upon it, and property in the soil itself is claimed by individuals.

The same remark may be applied to the patriarchs of old. Land had for them value only as pasture-ground; as such they occupied and held it in common, and any stranger leading his herds to the same ground, subsequently to this partial occupation, was looked upon as a trespasser. Everything, however, which had individual value in their eyes, their camels, horses, cattle, their tents and arms, they possessed individually.

The Germans, when Cæsar became acquainted with them, were not an agricultural people, or, at least, so unskilled in the art of cultivation that their interest in the soil was always limited to the growing crop. This indifference and ignorance of the value of

landed property existed in full force even during the time of Tacitus, as may be seen in his description of German manners.

As for the adduced custom of the Jews, we must not forget that the code of no nation is less fit to be adopted by others than the law of Moses, because the object of the Jewish scheme of government was not only peculiar, but unique. The political character of that government, indeed every relation of right, was with the Jews subservient to the one great hierarchical object of Israel. The whole frame of government, from the fundamental idea that the chief magistrate was Jehovah himself, whose visible vicegerent was the high-priest, to the minutest detail; and from the first foundation of their government, which was unconditional conquest, to the division and subdivision of land, and the exclusion of the tribe of Levi from all participation in such property; everything, in short, which had any relation to the original political organization of their government, was made subservient to the one great object, namely,

the preservation of a belief in the true God, notwithstanding the allurements of the polytheism of surrounding nations, and in spite of the idolatrous tendency of the Jews themselves.

Yet it is remarkable that the Jews, having once changed from a nomadic nation, which they were in the desert, to an agricultural, so soon as firmly settled in Palestine, seem never before the exile to have fully applied either the law enjoining the jubilee, or the total rest of all tillage in every seventh or sabbatical year, although so explicitly commanded in several places of their code.[1] At least this seems strongly to appear from numerous passages in the Old Testament,[2] and is the opinion of distinguished theologians.[3] The whole of the country inhab-

[1] Exodus, xxiii., 10, and seq. Levit., xxvi., 8.

[2] 1 Kings, xxi., 2. Isaiah, v., 8. 2 Chronicles, xxxvi., 21. Leviticus, xxvi., 34. But in 2 Maccab., vi., 49, it is mentioned: "But those in Bethzura could no longer tarry therein on account of hunger, for it was the seventh year, in which it was law to leave the fields barren." And Joseph., Antiq., xiv., 10, 6.

[3] For instance, Dr. De Wette, in his Manual of Hebro-

ited by the Israelites was conquered in the name of Jehovah; the original inhabitants were extirpated in his name; in his name was the land divided, and every title of property was held as a direct gift of that government; and with reference to all these relations of the land-owner, the latter was called a stranger and a sojourner; the land itself Jehovah's. He, Jehovah, in the capacity of the national God, monarch, and conqueror, was actually, in the Israelitic scheme of hierarchical politics, the only true, original, and perpetual land-owner; the Jews were but tenants at will, "sojourners."

These peculiar relations, however, do not obtain with us any more than numberless

---

Judaic Archæology, 2d. ed., 1830, paragraph 153. In this book the preceding quotations will be found. It is not a little curious that Tacitus speaks of the Sabbath and the Sabbatical year as believed to owe their origin to idleness. "On the seventh day, it is reported," says Tacitus (Hist., v., 4), "that they have liked rest, because this day brought them an end of their toils; and when once they had obtained a taste for leisure, the seventh year likewise had been consecrated to idleness." (Dein blandiente inertia, septimum quoque annum ignaviæ datum.) So difficult it is even for a great observer to understand the institutions of distant nations.

other principles of the Mosaic code, which are wholly inapplicable to our state of things, or, if applied, would be revolting, and throw us back into a state of barbarity.[1]

Poets have repeatedly indulged in describing a primitive state of pure happiness, when not only land was held in common, but all property whatsoever. It is one of the objects of poetry to delight, to seize upon

[1] Although the Jewish theory has actually been adduced to support the opinion that the king, the vicegerent of God, is the original and perpetual land-owner, for instance, under Louis the Fourteenth, king of France, it is hoped that no refutation of so extravagant and unfounded a theory is nowadays necessary. In countries where theoretically the feudal principle, that the first titles of property in land flow from the monarch, is still maintained, as in England, he is nevertheless by no means believed to be the original land-owner; for he derives his title from the common law of the land, which is not considered his creature. We have seen already how very strong a theory to the contrary Lord Chatham maintained in Parliament. The same law which theoretically elevates the monarch so high, regarding primary land-titles, decrees also that he cannot take the land as he lists; a law much older than the Norman Conquest, and which was accepted by William and confirmed by Henry, of whose charter Lord Lyttleton says, "By this charter Henry the First restored the Saxon laws which were in use under Edward the Confessor, and settled in Magna Charta."

the indistinct yearnings of the human heart, and to use them as the means of sympathy with its own creations, and, in imagination, to carry out in detail, and to represent with clearness, that which may exist in the human breast as an undefined yet strong desire. One of these desires is to be freed from all the toil, trouble, pain, and misery which ever surround us in this world; and nothing can be more natural than for those who possess a creative imagination to sing in distinct words, clothed in substantial images, what the less gifted can but breathe forth as an indistinct wish in the sigh of suffering.

This world is a world of grief; man has ever felt it; and if the cheerful prospect of a future world of peace is not before the eyes of the sufferer, he indulges at least in the pleasing contemplation of a supposed past world, when there was not yet any labour—the golden age; when the language of man did not yet contain the two stern words of Mine and Thine.

It is clear to all, even the least scrutini-

zing, that much of the troubled state of the human mind, of jealousy, vice, and crime, suffering and iniquity, arise out of the institution of property and the accumulation of riches. Poetic minds, therefore, readily imagined a state of things where this source of so much evil had no existence. But it happened in this case as so frequently in others; men well knew one state of things in detail, by personal experience and reality around them; the other, however, by their fancy and in general outlines only.

They did not see that, even were such a state of universal community of property possible, which it is not, the evils attending it, the overwhelming insipidity, the stagnation of mind, and all the jealousy still arising out of the different mental, physical, and moral individualities, must have been far greater. Or must we imagine not only an absence of all property in that golden age, but also men looking all alike, neither handsome nor plain, equally gifted, neither wise nor dull, and equally moral, neither gentle nor impetuous?[1] What indescribable dul-

[1] So have most wars of established nations some reference

ness and barbarous want of all civilization would this state of things produce! The fabled golden age, with its absence of labour, is as little founded as the poet's state of pastoral innocence and happiness. So far from this state having ever existed, we find that all pastoral tribes belong to the most barbarous and vicious.[1] Indeed, it is very evident that the fancied state of labourless existence and absence of exertion is the

to their territories. A poet might imagine a state of things when there were no national landmarks, and, of course, all causes of a territorial character for wars would be removed. But would wars really be removed? Do not the wandering tribes fight infinitely more than the settled ones? Precisely in the same manner would there be more dispute, jealousy, and want of peace between individuals if the lines of individual property within a nation were erased.

[1] In the first volume of the Political Ethics, page 150, in treating of this fact, I have given several instances, but expressed my ignorance of the moral condition of the shepherds forming a large class of tho population of Spain. I have since met with the following passage in Chateaubriand's Memoirs: "The sprucely-dressed majo of the Guadalquivir, with his dagger in his shepherd's crook, and his hair confined in a net, never distinguishes the thing from the person, and reduces all difference of opinion to the alternative—kill or die." There is a similar remark, if I remember right, in Mr. Slidell's work on Spain, but I am unable to turn to it at this moment.

creation of ages when mental formed but a minimum, compared to physical activity. But who is there in an intellectual age that sighs for a listless existence ?

This view of the poets became general, and philosophers and historians adopted generally, as a universally received fact and without farther inquiry, the view that, as, for instance, Justin said,[1] "All things formed a common stock for all mankind, as the inheritors of one general patrimony;" or as Cicero expresses it by comparing the world to a theatre, in which the seats are common property, yet every spectator claims the one he occupies for the time being, but no longer.[2] It was believed that the views of the

[1] Book 43.

[2] Mr. Dugald Stewart quotes this comparison with approbation, as illustrating the fact that occupancy of common property cannot produce a title of individual property without the aid of municipal laws. But he forgets that the theatre is individual property, common, indeed, to a certain number of people (as the ancient theatres were public buildings), but the number is limited, and that, besides, the occupant claims his right to the seat, which he possesses for the time being, by priority of occupancy or temporary appropriation, so long as it is of interest or use to him, that is, so long as the performance

ancients were confirmed by the bible. Grotius says: "God gave to mankind in general, dominion over all the creatures of the earth, from the first creation of the world; a grant which was renewed upon the restoration of the world after the deluge."[1] Upon perusing the passages adduced by that great jurist, especially in conjunction with the twenty-eighth verse of the first chapter of Genesis, it will appear, first, that nothing more is expressed in them than the right of man to use the animals and fruits of the

---

lasts. Mr. Stewart then adds an instance of his own, namely, a man who rests himself in the shade of a tree. It would, he says, certainly be unjust to claim the spot for the same purpose so long as the first occupier rests there, but it gives no enduring right to the occupier. This instance serves to show the nature of temporary occupancy, but not that of property in law. If that spot of ground was unappropriated, and the man wanted every day to rest in that shade from his labour—in short, if he had a permanent interest of enjoyment or use in that spot, he had likewise the right of appropriating it to himself; that of exchanging it for another spot equally shady, if his neighbour desires his spot for a better use, and so on.

[1] The Rights of War and Peace, book ii., chapter ii., 2; where, in confirmation of the above, are quoted Genesis, i., 29, 30, and ix., 2.

earth for his sustenance; and, secondly, that "the dominion" which is bestowed upon man does not mean any general property, but the power which he, with his superior intellect, will and ought to exercise over animals fiercer or swifter than himself, and the right of appropriation, or of making property. He shall "subdue it," that is, make it his own. The first, and, in my opinion, the most important of the passages relating to this subject, is the one last cited.[1] It reads thus: "And God blessed them (namely, the first male and female); and God said unto them, Be fruitful and multiply, and replenish the earth, and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth."

Man is here authorized and commanded to subdue, and the authority of dominion is given him; not a dominion already existing,

[1] Genesis, i., 28, which authority of appropriation is bestowed immediately after the creation of man and woman, related in the preceding verse.

but one which he has a right and a duty to acquire. For, what dominion would that be which has no sort of power for its exercise? How did Adam rule over a distant fish or a fowl, whose existence he could affect in no manner whatever? Was not the animal roving through a distant forest, to which the first man never penetrated, far more the ruler of that forest than he himself, if actual dominion, and, still more, if possession and property had been bestowed, and not the right and power of appropriation and production, ever accompanying man as one of his attributes whithersoever he or his children should move?

If the whole earth was originally given as actual common property, by what right does any individual or separate nation single out and appropriate anything to themselves; and what sense can we possibly connect with the idea that the fish in Baffin's Bay are the common property of the Esquimaux, the Briton, the Caffre, and the Japanese, or that it was the common property of the patriarchs or of the first sons of Adam? The

term property has no meaning in these cases. Where can any one show even the most indirect consent of the united inhabitants of the earth, which might be construed as bestowing upon a single whaling captain the right of making all the whales he catches his own or his employer's? No theory ever so bold, no assumed tacit consent, can be imagined, even with a stretch of our imagination, to serve this purpose here.

If, however, the quoted passage of the bible be adduced, as has been done, to prove that the dominion over the soil itself was never bestowed, but merely over the fruits and animals, and that, consequently, the property in land ought to be held in common, the question again arises, Whence do governments or nations hold the right of property in a certain district — which, according to these theorists, ought to be held in common—to the exclusion of all other nations?

If the bible proves anything of the kind, it proves that we must never pass beyond the hunter's and nomadic state, and that to

this day the New-Zealander has as good a right in the timber of all the State of Maine as he had when it was unappropriated, if he could have appropriated it to himself in some way or other. Those who maintain that the game and the fruits of the earth may be appropriated as individual property, because they are the effect of individual exertion, but that land cannot, and, therefore, is either specifically bestowed by government and by positive law, or that it ought to be held in common forever—these reasoners, as I intimated before, take an erroneous view of property in the soil and of the creation of value. The land was not made by man, but the cultivated field is as much a product of industry and ingenuity as the house which is built of appropriated timber, or as a cargo of dried codfish.

The early theologians thought that the view of an original common property was supported by passages in the New Testament, in which it is related that the first Christians joined their property. It was maintained that holding individual property was

no sin, but it originated out of sin, inasmuch as the rapacious and the wicked first introduced private property, and the good were consequently obliged to protect themselves. I have spoken elsewhere of this subject, and cited some important passages of renowned theologians.[1] Still this view, according to which things unowned belong to all, is not absolutely universal, for we meet with passages in distant codes which speak of land belonging to no one.[2]

The very term Property implies, as an essential qualification of its meaning, a high degree of exclusiveness and power of the owner over the thing owned. It cannot, therefore, be applied to all; and to advance that something belongs to all men, or that everything was given as actual property to the first man, is stating a contradiction in itself. But it implies no contradiction if we say that the necessity of the creation of property lies in the nature of man, and that

[1] Political Ethics, vol. i., p. 125.

[2] For instance, the Damasat, the Buduh code of the Burmese, speaks of woods that belong to no one.

he carries along with himself the inextinguishable necessity, right, and duty of appropriation and production, and that, because it is natural to man, we find the trongest desire of property in all periods of history, with all nations, and at all ages of life, and in situations in which it can be atisfied only on a most reduced scale.[1]

[1] Children soon claim things as their own, and love to point out a bed in the garden, a flower, a fowl in the yard as theirs, n many cases wholly independent of an expected exclusive use. But the youthful mind is naturally pleased in thus seeing its individuality reflected in the material world around it. Children in Houses of Refuge, upon the cellular system at night and constant common labour during the day, will still delight in having in their little cell something they can call exclusively their own. Prisoners in the penitentiaries, monks in their convents, though the order may wholly abolish individual property within itself—even galley-slaves, who sleep and work in common, show this original urgency in man by contriving to save some trifle, very frequently without the least use, and keeping it in a little box. Every one who habitually visits prisons will remember the little boxes of the prisoners or juvenile inmates, which manifest the struggle of human nature against that state of things in which it is so signally repressed. Dr. Howe, in his Ninth Annual Report to the Trustees of the Massachusetts Asylum for the Blind, states of that unfortunate and interesting being, Laura Bridgman, who is blind, deaf, and dumb, that even she, who enjoys

If the bible seems to support the theory of original common property or of its general preferableness, in some passages, we ought not to forget others which indicate the contrary. Of the six commandments which, to distinguish them from the others of a more strictly religious character, may be called ethical, two relate to the sacredness of private property. We should not even *covet* our neighbour's property; and the code of Moses curses him that removes the landmark.[1]

To find how universal the acknowledgment of the right of private property has always been, we have only to examine the political or religious codes of any nation. The most distant countries, and periods most

always in common with other inmates of the asylum all that is to be enjoyed, and who is so dependant in every way upon others, "is fond of acquiring property, and seems to have an idea of the ownership of things which she has long since laid aside and no longer uses." If I remember right, the same was observed in the girl similarly circumstanced at the Hartford Asylum for the Deaf and Dumb.

[1] Deuteronomy, xxvii., 17. Also Proverbs, xxii., 28; again, xxiii., 10. Job, xxiv., 2.—The *herma*, or landmark of the Greeks, became the altar of a god, of Termon and the Roman Terminus.

remote from one another agree in this point, and never has there existed an individual desirous of performing great actions who did not feel obliged to respect this element of society. One of the Buduh commandments against the five chief sins is for the protection of property.[1] The rules by the observance of which Timur the Conqueror says that he became great, and which he lays down for his successors to maintain that greatness, contain one for the protection of property, and the punishment of robbery and oppression.[2] The Twelve Tables of Rome,

[1] These five commandments are;

Thou shalt not kill.

Thou shalt not steal.

Thou shalt not commit fornication.

Thou shalt not lie.

Thou shalt not drink intoxicating liquor.

See the Sacred and Historical Books of Ceylon, &c., edited by Edward Upham, London, 1833, vol. i., p. 20, and several other places.

[2] Timur mentions in this autobiography twelve rules, to the strict observance of which he ascribes his success. We are not called upon here to discuss how strictly he observed them. It is sufficient for us to know that even this most mighty conqueror acknowledged of how great a practical and radical importance the sacredness of property is. If a Timur acknowl-

the early Greek laws, in short, all codes might be cited.

As to the fact that many of the present political societies arose out of conquest, when titles of property were often violently changed, it neither proves that government makes property, nor that property was held at any period in common, although it may at the first glance appear to do so. It has been sufficiently shown that government cannot in general make property; it has not the power of doing so, for property is made by appropriation and production; but it may bestow, confirm, or change titles to property, and in doing so it may act according to justice, unjustly, violently, or peaceably, as it may do in performing any other act. The conquerors of Gaul, Spain,

edges it, it must be founded as one of the very elements in human nature. The twelve rules of the gigantic conqueror may be reduced to, Administration of Impartial Justice (rule 1, 2, 4, 7); Love of Truth (2, 6, 7); Obedience to God's Commands and Esteem of Religion (3, 5, 9, 10, 11, 12); Protection of Property (8); Mercy (4).—They may be found in Mulfazāt Timūry, or Autobiographic Memoirs of Timur, &c., transl. by Major Charles Stewart, London, 1830, Oriental Translation Fund.

and Italy have at no time conceived the idea of common property, unless the very brief period between a conquest and the actual settlement be thus called; but there is no student of history who would refer to these conquests for a proof that governments originate property. Indeed, the individual appears prominent in the Germanic conquests, which by no means ended always in distribution alone; much landed property was violently seized by the individual, and retained by him without first passing through the act of a general apportionment.

Of certain Peculiarities of Property in Land.

There are peculiar qualities inherent in the ownership of land which have been influential in creating a belief that originally landed property was either held in common or as a mere gift of government. Of these qualities the following may be remarked:

Like moveable property, land can be surveyed, its extent ascertained, and its ownership established; but, unlike moveable property, it remains forever on the same spot,

and is incapable of destruction or obliteration. It cannot be transferred from place to place at the option of its owner, and this incapacity of removal it shares in common with the unappropriated sea. Misled by this similarity in one respect, certain theorists have believed and asserted that, inasmuch as the products of the sea, and not the sea itself, may become private property, so the products of the land, its trees, its fruits, and its herbage, may be subjected to individual ownership, and not the land itself. But these writers, while contending for a community of landed property with reference to the individual members of the same state, forgot that an extension of the principle would invalidate the claim of any political society to hold certain districts of country to the exclusion of other political societies, and overlooked the important difference which exists between land and water—the former being susceptible of improvement, and capable of being made an object of exchangeable value. If men could build upon the sea, and "curse him who

removeth" the seamark, it cannot be doubted but that we would have *private* maritime property, as we now have *private* landed property. Indeed, appropriation of the sea does exist, as far as such appropriation is possible. Harbours and bays are admitted to belong, by the law of nations, that is, by the common sense of mankind, to the dominion of whoever has sovereign authority over the neighbouring land.

The durable nature of land causes it to pass through a longer series of owners than other objects of property, and the connexion existing between a government and its territory necessarily exposes the title of landed property, in the course of years, to those violent actions, such as conquest or revolution, which affect the right of ownership. The paramount law of necessity also causes the state to interfere more frequently and directly with the ownership or transfer of this species of property than of any other; so that the original appropriation of land is involved in more obscurity than that of things more recently appropriated by us,

or of things produced by us, in which the substance upon which we have conferred additional value by our labour is less prominent, or the productive agency of nature less apparent than it is in the case of land to which cultivation has given value.

Of the Lapse of Land into an Unappropriated State.

Soil, or the existence of land, outlasts all the vast changes of institutions and opinions through which mankind pass in the course of centuries, and many of which destroy the societies which owned the land, or the objects for which it was given by individuals or granted by public authority. It is evident, therefore, that, in the long lapse of time, property in land must be peculiarly subject to those changes which are made on the ground of superior necessity, and the ultimate and sovereign demand that man, according to his nature and destiny, must live in society, and that, if other interests clash with this high destiny, they must yield. It is a demand of man's nature that he should

live in political societies, and, if other interests are made subordinate to this ultimate and sovereign demand, it is done upon the same ground upon which the Roman law admits the otherwise unauthorized appropriation of another man's private property in case of absolute necessity, for instance, the appropriation of another man's stores in case of actual starvation.[1]

Changes of property, having become necessary on this ground, may be threefold: The owner may totally vanish; for instance, when the Reformation was introduced in some countries, monasteries which held land were extinguished: or the object for which it was given may be extinguished, and yet the property may have been held in trust for that sole purpose; as when the revenue of some land was destined, without any contingent condition, for the reading

[1] See the Carolina, or Penal Code of Charles the Fifth for Germany, art. 166. Mittermayer's Manual by Feuerbach, 13th ed., p 454. The English law does not allow appropriation in this case; but, of course, a jury would allow the reason to have proper weight

of Masses for some deceased person, and a change of religion abolishes them, or when the state actually declares the object unlawful:[1] or property may, by some special abuse or not, have become so concentrated, or have assumed so peculiar a form, that it militates against the safety and peace, or against some other elementary principle of the state.[2]

In these cases it is seen that disimpropria-

[1] When pious men in Spain left property for the purpose of redeeming christian slaves from bondage in the Barbary States, and these give up their piratical expeditions; or if property is left for lectures on a certain subject, which an improved state of knowledge erases from the catalogue of sciences, it is clear that the property must be apportioned otherwise.

[2] For instance, when, at the time of the Gracchi, landed property in Italy had become concentrated in comparatively a few vast plantations, called latifundia, from which the most important class in any free and well-regulated community, the class of small farmers, had vanished, and the lands of which were converted to pasture-grounds because slave-labour was found to be more profitably employed in the management of herds and flocks than in tillage; or when, in consequence of former prevailing religious views, landed property had accumulated in the hands of the church to such an extent that it became wholly incompatible with the welfare of the state, as France or Spain before their revolutions.

tion, if I may use the word, may take place of itself, by the extinction of owners, or of the causes which gave definite character to the property; and either already existing laws may forthwith appropriate the same anew, or specific laws may be made for it by a society already far advanced in civilization; or the owners may be despoiled either by a law or a revolution, embracing this as well as other forcible changes. In this case we must not forget that it is a violent change, which it is admitted may become necessary, in a like manner as conquest may become necessary, which cannot either be adopted as the rule, or be adduced as confirming the belief that property is always held as a boon of government, or that property was originally held in common.

If a revolution wrests property from its owner, the despoiler forthwith, and generally by the same act which effects the spoliation, appropriates the soil.[1] It is therefore

[1] The property does not pass through that undefined state of belonging to no one. It is a violent change of possessors.

contrary to the law of nature to maintain, as has been done of late, that government has a natural and enduring right to abolish individual inheritance or individual property in land. If a man pays full value for land, it becomes, according to the law of nature, which permits and enjoins accumulation and exchange, verily his own, because taken in exchange for values which were his, and it is revolution alone which can dispossess him without an equivalent.

These revolutions, as has been fully admitted, may become necessary. The necessity, however, consists in something very different from the impatient desire of seeing the realization of some fanciful theory, in order to remedy some real or imagined evil. Domestic revolutions, which violently change the ownership of property, are dire events, not on account of the unavoidable bloodshed alone, but because they shake the whole social system, engender the worst and fiercest of all passions—cruelty combined with cupidity; because they induce depravity at large by unsettling the stability

of justice, and reduce the general standard of morality, loyalty, confidence, and high-mindedness; and because, by the insecurity which is necessarily their result, they for a long time prevent the productive employment of a nation's accumulated values. Thus they spread suffering and misery far and wide, and arrest the people on their path of civilization for a long time.[1]

In the preceding instances, such cases alone as occur within a political society have been considered. Disimpropriation, in these cases, has reference only to the individual owners, and, so soon as it takes place, their respective state or nation appropriates forthwith what may have become ownerless. It is a different question whether, according to the strict law of nature, property may become alienated from a state without the positive action of its govern-

[1] It belongs to the more particularly speculative part of natural law to show how relations of right and lawful property may develop themselves out of original violence, or other disturbances of right and justice. The subject has been dwelt upon in the first volume of the Political Ethics.

ment, and, consequently, may be appropriated anew by him who chances and chooses to be the first to occupy it. This question is of practical importance to America, as the case of Texas proves. Here is the vast American Continent, with rich, extensive territories appropriated or declared to be appropriated by certain governments, and by people who in many cases have made no use of the soil or any of its products on the one hand, and, on the other hand, an active, adventurous, bold, and industrious population, spreading in all directions. These two portions of mankind, in a soil so peculiarly circumstanced, live at a period when men are far less disposed to cut short any international difficulty by the sword, or to realize any desire to possess land with the cannon, than in former ages. The question of appropriation or conquest, therefore, appears really to present itself in an entirely new aspect, and requires dispassionate investigation.

To decide the question, we must first again distinctly present to ourselves the

characteristic principle of appropriation. I appropriate a thing if I make it mine, the thing having had no owner before; and a thing becomes in fairness mine if I am the first to make it subservient to my individual use; if I assimilate my labour with it for direct use; or if I leave it, in general, in the state in which I found it, and only effect that change which brings it under my power of protection, for future use or enjoyment.

It is often said that no man can object to another's occupying as much land as he can make use of; but this term Use is left unexplained. It certainly cannot be restricted to actual cultivation. Suppose a man sees his family rapidly increasing, or sees that his timber is fast failing, but that, on another spot, timber such as he wants is growing, and will be fit for use by the time his present timber will be consumed; it cannot be denied that the spot on which the timber grows falls within the term of usefulness to the appropriator. But, to make that hitherto unappropriated thing my own, which is of prospective advantage to me, a mere decla-

ration to that effect will not suffice. No matter how fully my intention may have been expressed, this single expression does not make the thing mine, nor does it in any way stamp it with the character of property.

To give to it this character, it is necessary that the claimant be in some direct connexion with the thing claimed, and can mark it as his individually. This may be done by assimilating his individuality with it, either by changing its character in connecting it with his labour, or by the exercise of immediate authority or control over it. If he does not stamp it as his, or, rather, does not produce by his labour, in conjunction with the natural agents, a new thing (such as converting waste land into arable), nor maintain his appropriation for future enjoyment by protecting the thing appropriated, he cannot claim it as his, because he has no disposing power—no mastership over it.[1]

[1] It has been maintained by several former writers that marking an unowned thing suffices for occupancy, out of which appropriation arises. But this will not be urged at present without much limitation; it establishes of itself no

The right of appropriation lies, as we have seen, in the fact that the thing has not

connexion between the thing and he who marks it, and, moreover, might be extended, especially with reference to land, to a most unreasonable extent. If, however, the marking itself proves great previous labour, or the slaying of an animal, and shows an immediate desire to use it, especially if it is clear that he who marked is prevented from using the thing by circumstances, the case seems different. As an illustration, I will quote a usage which has grown out of the common feeling of our whalers when many thousands of miles from their home and their political society. Mr. G. T. Curtis, in his Rights and Duties of Merchant Seamen, Boston, 1841, gives, in note 4 on whale-fishery, page 394, the following remark, as communicated by a professional gentleman of New-Bedford, Mass. :

"The rule with regard to the occupancy of these animals (the whales), 'feræ naturæ,' is believed to be somewhat different from the rule of the common law in regard to land animals. The whaling-craft of every vessel is marked, harpoons, lances, &c. When a whale has been *actually killed*, and other game is in sight, or it is inconvenient, for any other reason, to take him on board, it is usual for the captors to fasten a 'waif' (marked iron) into the body and leave it. Many days may elapse before the animal is recovered; and if, in the mean time, another ship should fall in with it, and the waif is still adhering to the body, the right of property is considered as remaining in the original captors, and is strictly respected. If it were violated trover would undoubtedly lie. When a number of vessels are engaged in pursuit of the same whale, and a boat's crew succeeds in making fast to it, no new crew

yet been appropriated; the object, in usefulness; the means with which we effect it, in use and power (for prospective use). If these are lost, property is lapsed. In a nation in a state of peace, a total lapse of property is never allowed actually to take place; and laws declare that, so soon as a thing becomes ownerless, the state at large becomes the owner, and shall dispose of it according to the best advantage of society, because any other arrangement would naturally lead to a great disturbance of peace.

But if a whole district of land is not used by a nation directly or indirectly, and if the nation has not been able to protect it as its own for a long time, it seems that the essential characteristics of property are really lost, and disimpropriation has taken place. The earth was given to mankind for use; and if it be left wholly unused, it fails to obtain its object. The power of do-

---

from any other vessel have any right to attack the whale. But should the harpoons of the first draw and the boat become detached, they have then a right to renew the chase equally with the others.'

minion in a government corresponds to the power of control or influence in the individual.

It is readily acknowledged that such words as Use, or Direct and Indirect Use, are terms, the correct meaning of which must depend upon our fairness, and, of course, may be very easily misconstrued by reckless cupidity. This fact, however, does not invalidate the truth of our position, that nonuser, fairly to be considered as such (which ought to include, in the law of nations, absence of all productive use, of utility to the safety of the whole, and power to claim or protect it), works between nations a lapse or "waiver." But since it is, in the nature of things, difficult to decide when this international waiver or forfeiture has taken place, and since our judgment is so easily influenced by arguments originally suggested by cupidity, perhaps unconsciously to ourselves, we ought to be exceedingly cautious in making use of a right thus devolved, and especially not to abandon a country abounding in uncultivated land and thin-

ly peopled, from sheer recklessness, for a soil to which we can lay claim only according to principles superseding established and written laws or treaties.

The question respecting Texas must be, perhaps, decided upon this ground: Was or was not the District of Coahuila and Texas unused and unappropriated for a long series of years by the government which claimed it by declaration? This seems to have been the question;[1] we will not attempt to solve it here; but, to give an illustration of the remarks just made, Upper California may be instanced.

In reading Mr. Forbes's History of Upper and Lower California,[2] the author can-

[1] If, indeed, the other view be not taken, according to which Texas was for a long time claimed by the United States, in their diplomatic transactions, as justly belonging to Louisiana. The Texans accordingly offered themselves as a state to the Union, and, when the United States declined receiving them, they established their own separate government. The reader may find a sketch of the diplomatic transactions respecting the claim of dominion over Texas insisted upon by the government of the United States, in a Letter of N. Biddle, appended to a work entitled Texas and the Texans, by H. S. Foote, Philad., 1841.

[2] A History of Upper and Lower California, from their first

didly acknowledges that he could not prevent his mind from yielding to the conviction that here a case of actual international disimpropriation has taken place, if, as no doubt can be entertained, the account be correct. One of the fairest portions of the globe; rich in every kindly gift of nature; a fertile, and, in parts, luxuriant soil, well timbered; navigable streams abounding in fish; a healthy, invigorating climate; an extensive country with a long seacoast, with harbours to aid effectively in a commerce across the Pacific, and thus uniting more efficiently Europe, America, and Asia in that first of all requisites of advancing mankind —in the exchange of their products—this vast territory, which might substantially con-

Discovery to the Present Time, comprising an Account of Climate, &c., with a full View of the Missionary Establishments and Condition of the free and domesticated Indians, with an Appendix relating to the Steam Navigation in the Pacific, &c., by Alexander Forbes, *London*, 1839. To prevent any misunderstanding, it ought perhaps to be mentioned, that Mr. Forbes does not once indicate, directly or indirectly, any opinion whatever approaching to the one above. It is the author's own, and, whatever censure may be bestowed upon it, he must take it solely upon himself.

tribute to the great mart of nations, where the production of every new commodity forms a demand for the production of equivalents, and might offer to millions upon millions happy and prosperous homes, is, while other territories are crowded and many overpeopled, nevertheless inhabited by a very few of the poorest and lowest Indians, and wholly unprotected by the Mexican government, which cannot possibly extend its power to this region. It seems that no mere declaration, "This belongs to us," can become a bar against the very destiny of so genial a soil.[1]

[1] The ground upon which the title arising out of occupancy alone is conceded to our Indians, but not the actual ownership of the land, is this, that they do not use the land as it was destined to be used, for the support of mankind, and that but very few individuals can be maintained by the produce of the chase. The same argument, but in a higher degree, would apply to a government which neither uses nor protects a tract of land. The reader who desires more accurate information on the subject of Indian occupancy and the ownership of land vested in the United States, is referred to the interesting cases adjudged in the Supreme Court of the United States: Johnson v. M'Intosh, 8 Wheaton, 543, and Fletcher v. Peck, 6 Cranch, 142, 143. The whole of Lecture li., vol. iii., of Kent's Commentaries, is of much interest on this subject.

V.

On Common Property in Land.

Private property in land is as natural and unfailing an effect of man's right and duty to appropriate and accumulate, as property in other things. It is true, indeed, as we have seen, that we find in the early history of many, perhaps of most, nations now existing, a general distribution of land, because all these nations obtained possession of the soil which they now occupy by conquest, or, as was frequently the case in America, by public barter; in short, by a process in which a community already formed acquired, as such, the land as a whole mass, and, of course, was obliged to resort to a division, either at once and throughout the territory, or gradually, according to prescribed rules. Conquest, however, belongs to those many acts of violence which may forcibly change the owners of any property.

The universal tendency is towards private property; a tendency which shows itself invariably the clearer with the advance of civilization and cultivation.

It remains now only to inquire whether it is expedient for a community either to retain the common ownership of land, after it has been obtained by fair or violent means, barter or conquest, or to return to it by a general legislative spoliation of the private owners, or by the main force of a revolution —a civil war and internal conquest, as it were.

The instances which are at times adduced in order to prove the prosperity of associations holding landed property in common, and uniting all their profits which may result from any branches of their industry, such as Mr. Rapp's community, or the associations of the people generally called Shaking Quakers, are wholly insufficient to prove any principle of general political action.

These communities are either very limited, so that, indeed, they have, in many re-

peets, the attributes of private owners, and have existed but a short time, or they are founded upon religious views so peculiar, and at the sacrifice of so much that is held vitally important by all the rest of mankind, that they prove nothing against the law of mankind exhibited by the course of history, that the more civilized a tribe becomes, the more distinctly does private property in land develop itself; and that the more this development is retarded, by whatever causes, the less is land made serviceable for the great purposes of mankind.

This truth applies not only to whole states at large, and comprehensive institutions, which may promote or retard private property in land, but it obtains likewise with reference to every period of advancing civilization and political progress. With every onward step which culture makes, some land, until then held in common, as waste land, huge forests, or common pasture, is parcelled out to private ownership, in order to receive the fertilizing culture of private industry, and the exertions of him

whose individual success, hope, and pride are bound up in a specific piece of land that he can distinctly and exclusively call his own.

It has been proposed to unite the advantages of private and common property, by parcelling the land into farms sufficient to maintain a family, and to give the use of it for life. As these standard farms become vacated by the death of the owner for life, the person highest on the list of those who have become of age is to enter as the new occupier. This arrangement, if it could possibly be carried into effect,[1] would go a great deal farther than the ancient Lacedæmonian institution of landed property, which made it at least family property. The Lacedæmonian institution only prevented too large an accumulation of landed property, and was meant to prevent every citizen from remaining without land.

[1] The question of the right, arising out of the right and duty of accumulation, and the wrong done to the possessor who has given his equivalents in accumulated values for a portion of the soil, has been touched upon in a previous passage, and need not be discussed here.

Those who propose so fanciful a scheme forget to tell us what should become of those who, after all, do not receive a farm for life; how the original division shall remain adequate to an increasing population, or whether new divisions from time to time shall take place, which even in Sparta, accustomed as the ancients were to consider themselves individually wholly the creatures of their state, nevertheless led to frequent tumults and disorders.[1]

What shall become of the surplus revenue derived by the temporary possessor of the land from his farm? Shall he be bound by law to reinvest it in the farm? How can he be forced to do so? And if not, will he not endeavour by all means to invest it in a manner so as to secure it for his children? What is to be done with his widow? is she to be maintained at the public expense? If we are answered that the entailed roperty of the British peer deseends whole and entire, without reference to his

[1] Aristotle, Polit., 5, 6, 2.

widow, we must remember that at any rate it does descend in the family; she is provided for; and that the revenue derived by the possessor may be invested, and, after death, disposed of as the owner thinks best.

Let us ask farther, How shall the temporary owner of the farm for life be induced to improve his farm to the utmost, that it may keep pace with advancing culture in other countries, and with increasing population? or, rather, How shall he be prevented from acting as the former governors of Spanish South America did, sent as they were for a brief time only, and generally, therefore, disposed to make the best of their allotted time, and to fill their coffers as quickly as possible? How can so disastrous a system be prevented from spreading desolation over the land, and driving capital into foreign parts, instead of investing it anew in land or other branches of industry? Why shall this arrangement extend to farming industry only? Shall the farmers form a caste, as in the East? How shall the physician, the lawyer, the manufacturer, or

merchant, be induced to invest their accumulations in land? Not to speak here of the demoralizing effect which so incongruous a system would inevitably produce upon all, by rendering all possession unstable, and by vastly increasing poverty through universally reduced productiveness.

Those who have proposed so irrational and unnatural a measure seem to start from the idea that land is value of itself, and yields sustenance like a wild fruit-tree. They do not seem to consider that we cannot turn land to any account unless we have capital or accumulated values to begin with, and that we must continue to save and accumulate values lest a rapid falling back into barbarity should take place, as it actually has taken place at all times when this fearful fact occurred; for instance, as was mentioned before, in many parts of the Roman empire during the first centuries of our era.

The Constitution of Lycurgus provided for a primary distribution of land, which had been conquered by the Dorians from

the original Lacedæmonians, and in various ways endeavoured to extinguish the idea of individual property in land. Each citizen should, if possible, possess one share (κλῆρος), and no more; nor should he sell it or divide it. The whole share should belong to the family (οἶκος, house). One of the very objects of this institution was, that the Spartans, the conquerors and rulers, should enjoy the leisure (ἀργία) which became an acknowledged object of the state. Agriculture was degraded, and considered fit for helots and serfs only. Cleomenes the elder called Homer a poet fit for Spartans, and Hesiod for helots, because the latter had made agriculture the burden of his song.

The natural consequence was, that Lacedæmon became one of the least productive countries of Greece, and the Spartans were continually and necessarily engaged in conquests, while, on the other hand, the Constitution of Lycurgus seems never to have been fully exacted. Soon it was altogether abandoned, with its idle dreams of iron money. If the Spartans degenerated, it is

equally clear that, had they really adhered to all the regulations of Lycurgus, they could not have made wars and conquering excursions upon others, and must have sunk into a state of barbarous inanity. Whence should the means of conquest have been derived? I believe it cannot be denied that, while the Constitution of Lycurgus banished luxury and trade, in order to make the Spartan state an essentially military one, to which every other consideration seems to have been sacrificed, it was the military expeditions themselves which obliged the Spartans to disregard the Lycurgan law against treasures by accumulating them, in order to be able to defray the heavy expenses of their wars.

An instance of community of landed property, somewhat more similar to that which has been proposed, may be taken from the picture which Tacitus gives of the Germans. The passage itself, to which I have previously alluded, will sufficiently show that it simply arose out of the low state of agriculture. People valued the

land but for a short season. "The fields," says Tacitus, "are occupied alternately by entire communities, in proportion to the number of the cultivators, and immediately they are divided among themselves according to rank. The business of division is facilitated by the wide space of the fields. The seed-fields are changed annually, and they have land for this purpose in abundance. For, these people do not vie by exertion with the fertility and extent of soil, for instance, by planting orchards, laying out meadows, irrigating gardens; nothing but the seed is intrusted to the earth. Hence they even divide the year less minutely; of winter, spring, and summer they have ideas, and name them; a name for autumn is as unknown to them as the gifts of this season."[1]

A modern instance of a continued community of land and temporary division among families, and periodical exchange of good and bad land, connected as a matter of course with all the dangers of tumult

[1] Germania, 26.

and bloodshed, we find in a large part of the Afghaun tribes, a people in Central Asia. The custom of submitting, every ten years, or at periods of less duration, the tenure of the land to the lot, is called by them Waish, and described by Mr. Elphinstone in his Account of the Kingdom of Caubul.[1] The author mentions in a note appended to his description of the Waish, that Mr. Volney describes this custom as being in practice in Corsica. Neither the one nor the other will be found alluring examples, either on account of the advanced state of the people or the condition of the soil, for the active, industrious, and independent people of northern Europe and their descendants.

[1] Hon. Mountstuart Elphinstone's Account of the Kingdom of Caubul, &c., comprehending a View of the Afghaun Nation, 2d ed., London, 1839, vol. ii., p. 15 and seq. This work, of much interest on many accounts, contains the description of a systematized patriarchal system, which, in theory at least, is carried out by division and subdivision, from the king through a variety of larger and lesser divisions, tribes and clans, to the last head of a single family, such as probably exists nowhere else.

Among the great and elementary changes within the last half century, which have been made in the internal administration of the most civilized nations, the conversion of common property into private must be considered as the most prominent.[1] It was found that in all cases in which the value of the property is not positively injured by division—for instance, a pasture-ground so poor that it hardly affords scanty food, from time to time, to a few cattle in common—a far greater value is developed by private industry. This process had been going on, indeed, more or less ever since the end of the Middle Ages, but it may be said to have become one of the distinguishing features

[1] In Prussia a law was passed, September 14, 1811, which enabled every land-owner to absolve his feudal services, by obliging him to whom they were due to take an equivalent for them, and which divided all lands held by communities for constant or alternate common use, and which were, according to their quality, divisible into private property. We do not speak here, of course, of property held by communities or corporations, so that the profits accrue to them collectively, but only of common lands, made use of by the members of the community individually.

of the age during the last century, and is closely connected with what may be fairly called the main problem of the last period of history, the Commons' Liberty—individual independence brought down to the great mass of citizens, and not restricted either to the nobility, or to corporations or chartered bodies.[1]

[1] The characteristic difference between civil liberty in ancient times, the Middle Ages, and modern times, or of City States, Corporation States, and National States, forms one of the most interesting and most instructive subjects for the philosophical inquirer into history. I have endeavoured to sketch this difference, as well as the occasion permitted, in the second volume of my Political Ethics, where the peculiar character of the Representative, and the duties arising out of it, are discussed. I am not aware that there exists anywhere a history of property in which a strictly historical sketch of the titles and tenure of property is given. It would be one of the most interesting contributions to the history of civilization.

VI.

On the Inequality of Individual Property.

The theories which from time to time, since the first centuries of our era, have been started with reference to a community of property, either on religious, political, or strictly social grounds, and which have of late been renewed in some countries with redoubled activity,[1] are owing to several

[1] Community of property was repeatedly preached by religious fanatics in the Middle Ages, long before the reformation. Allusion is made here, not to the founders of monastic orders, who established a community of property within the limits of their orders, but to those sects who actually preached a general community of all property. Of course, they never had a chance to try the realization of what needs must be impossible, although they created misery and suffering, vice and crime, even in their attempts. The most ferocious preachers of a universal community of property (and even of wives) among the protestants were the anabaptists.

It may be mentioned here as an interesting, and no doubt significant fact, that, whenever community of property has been held up by christian fanatics, and, I believe, also by Mohammedan, community of wives, or promiscuous intercourse of the sexes, was coupled with the fanatical doctrine. We

other reasons than those misconceptions or that confusion of ideas on the original right of private property, or on a community of property within limited bounds, of which we have treated. They have been owing, in part, to the inequality of property.

No candid man will deny that there is, at the first glance, something startling in the contemplation of a large amount of wealth accumulated in the hands of some individuals, while many others are known to live in penury or actual wretchedness from want. There seems at first really to be a crying injustice in such an order of things.

---

perceive a similar phonomenon in regard to the modern socialists, at least in the American followers of the English. I am unable to say what the precise theory on this point in the British socialist text-books is. The French writers imbued with socialism, for instance Mr. Fourrier, prove the same.

There is hardly a more interesting subject which can occupy the inquirer into the organization of society and politics than this fact, and the tracing of the reasons why an annihilation of private property is so closely connected with the destruction of matrimony, and especially of monogamy. An essay on this subject would have found a befitting place in this volume according to its contents, but probably not with reference to its immediate destination.

This inequality of fortunes was greater, probably, than at any other period, during the imperial epoch of Rome, the time when the first christian philosophers—the fathers of the church—expressed their ideas on private property and the division of goods, which was caused, as they maintained, by the wicked, and the community of goods which ought to exist, or might exist, among the faithful, in which opinion they were strengthened by the views of the ancient poets. To both, allusion has already been made.

The question which can occupy us in these essays is not whether fortunes have not at times become alarmingly large, or whether, during some periods, wars have not concentrated immense riches in the hands of a few, and impoverished all the rest, as was the case at the cited period of Rome, when, besides the princely fortunes of the senators and favourites, all else in Italy was poverty and squalid slavery.

The question for us is, Is inequality of fortune the effect of original injustice, or

must it always be the natural effect of the course of things? Can it be wholly avoided, or will the end of civilization be a total equality of fortunes, as there seems to be no doubt that modern civilization has effected a greater general equality than ever existed before, where accumulation of property existed at all? Would an avoidance of inequality of property, if possible, be beneficial? Is there not equal inequality in all other spheres of human life and action? And, finally, would not those remedies, which have been proposed with a view of extinguishing inequality of property, and with it inequality of condition, entail infinitely greater misery?

Is the inequality of property the effect of injustice, or is it natural, consonant with our organization, agreeable to our destiny?

We have seen that the acquisition of property by appropriation and production is one of the essential attributes of man, is necessary for the advancement of mankind, and cannot be eradicated from our nature. Property is a primitive, direct, and absolute

manifestation of it, as much as language or the political existence of man. Individuals may rise from time to time, and question the justice of private property, as there have been, and still are, fanatics who question all authority whatever except the light within each person, and wholly deny the justice of compulsory measures; but neither the one nor the other can repress the nature of man, who will go on, and who cannot help going on, appropriating and producing, and, consequently, making property; and who will continue to consider it not only a duty, but a privilege, which distinguishes him from the brute, that he can acknowledge authority and obey laws.[1]

Fortune, if we mean by this term a favourable or unfavourable effect of things, wholly uncontrollable by the individual affected, has, as every one willingly acknowledges, as great a share in the enjoyment of property as it has in all other human affairs. To be born the son of an industrious and

[1] See Political Ethics, on Obedience to the Laws.

skilful man, who contrived to save every year some values over and above his expenses, and to accumulate them, so that the son has a capital to begin with when he, in turn, sets out for himself in practical and productive life, is to be fortunate. It is a species of good luck which may fall to the lot of one not half so deserving as a son of an improvident father who does not accumulate, or one who, himself oppressed with poverty, has never enjoyed a chance to accumulate any values.

But can we eradicate the influence which birth necessarily has upon every individual? The inequality of property, indeed, is but a minimum of the universal inequality of all things, and existing in all spheres of action. Every individual is strongly influenced, both physically and morally, by the place where, the period, the political system, and religion in which, and the parents of whom, he is born. The general state of health of the parents greatly affects that of their issue; the virtue or vice of the parents influences the education of their children. Chan-

ces, or uncontrollable, yet influencing occurrences affect us at every moment of our life.

Men have ever perceived this truth, and all ages, therefore, have felt their dependance, and been led to a belief in an overruling power. When the ancient fervently prayed to the goddess of Fortune for his newborn child, he was right in his consciousness of the utter insufficiency of human power, although his arms, stretched out in prayer, groped in the dark, and were directed towards a phantom. Bitterly as many of us do feel the inequality of condition, still man is not, what the Titan strove to be, his own god.

We cannot possibly eradicate the thousand effects of the chances of birth within the limits of a certain country, any more than the immense difference which there is between the fact of being born of Esquimaux parents near the icy pole, or of a contented farmer on the Ohio, or of an Athenian father at the times of Pericles.

Equality of property is desired in order to produce equality of condition, but does condition depend upon property alone or chiefly? How can an equality of condition

among civilized men be imagined, when the whole scale of the brute creation hardly shows so great a difference between the highest and the lowest animal as that between the most gifted and the lowest man?

An infinite diversity in the physical as well as intellectual and moral world is the great pervading law of the universe. We cannot change the different degrees of fertility of soil in the various countries, although it may at first appear to us startling that some parts of the globe should be so genial, and abounding in wealth almost at the mere touch of the human hand, while other soils grant but grudgingly the barest subsistence upon mean food to the hardest toil and plodding perseverance. Yet we shall find that it is owing, before all other things, to this very variety of soil, and the different angle in which it receives the rays of the sun, that men exchange, have commerce and industry, are enabled to people the world in great numbers, are obliged to have intercourse with one another, and to become civilized. Perfect equality of soil and clime, even

though of the most fruitful kind, would have rendered possible a very sparse population only, and this would have remained in a state of continued stagnation, simply because there would have been no exchange.

If the levelling principle be adopted, upon which inequality of fortune is considered an injustice, it seems that the poor Norwegian peasant, feeding upon his compound bread of oatmeal and bark, would have the fairest possible claim to share in the values which his far more fortunate fellow-farmer in the Genesee Valley, that happy land of the cultivator, is enabled to accumulate—I mean, to share in them in a direct way, and not, as he now actually possesses a right of doing, in offering values which he may have accumulated for land which may be offered here for sale. Has the Genesee farmer made his own lot and destiny? If it be unjust that there are men within the country richer than himself, it is equally unjust that he is richer than others either in his country or abroad; and—which is always left out of consideration by the declaimers against the

inequality of condition among men—if inequality of condition is the great source of crime and vice within a country, it will necessarily still continue to be the same, even if their visionary schemes could be executed, but an equality of fortune and condition among the various states, tribes, and nations should continue.

Equality is found nowhere. As it would produce stagnation in the physical, so it would effect inanity in the moral and social world. If all bodies were equally bulky, at equal distance and of equal attraction, there would be no motion of the heavenly bodies, no seasons, no vegetation. Diversity is the indispensable law of life. If the dispositions, constitutions, and characters of all men were equal, a state of inane nothingness, "in which all opposites have ceased," such as the contemplative Hindoo considers perfection, must ensue. Inequality of property is the will of the Creator; for individual property cannot exist without it, and individual property lies at the bottom of human advancement and civilization.

The argument, sometimes used against riches, that it is wrong that some should be rich so long as others are poor, is insufficient. If it were correct it would hold against all inequality of property; and if we abolish inequality of property, we must sink into unproductive barbarity, where all are poor. So natural and necessary is individual property to man, that there is no fear that it can ever be eradicated; but men may arrive at this ultimate conclusion only after fearful and sanguinary attempts at its extinction. Every attempt at what is unnatural must prove unsuccessful in the end, but the attempts themselves produce suffering and misery, or, if only wished for, discontent and unfitness for an active and useful life.

From what has been stated before, it must have appeared that the view of the injustice of diverse fortunes is founded upon another serious error. It was remarked that it is not long since the science of political economy has clearly proved that wealth does not consist in so much coin or specie,

but in values; and that, to repeat previous remarks, values are produced by conferring utility or desirableness upon things, so that they may be exchanged one for the other to the benefit and the increased possession of values or wealth of both the exchangers.

When money alone was considered to constitute wealth, and when, again, nearly all men harboured the distinct or dim idea that money and specie were the same, it was likewise believed, and openly stated, that what makes one man the richer must make another poorer; that if one nation prospers, others must needs proportionately suffer; for there is but a certain amount of specie, and if wealth consists in specie, it is clear that, if it accumulates in one place, it must lessen in another.[1] Accumulated wealth in private individuals appeared likewise as so much wealth taken from others, and withheld from those who do not possess it.

[1] The author is aware that he has stated this before, but he cannot avoid exhibiting again so deep-rooted and yet so fatal an error.

Since we know, however, that wealth consists in values; that values must be accumulated in order to furnish capital to begin the production of new and farther values; and that exchange of values is in all judicious cases for the benefit of both exchangers, we know, too, that accumulated capitals are not spoliations of others, and, if honestly acquired, however great, imply no injustice whatever; but, on the contrary, that, as Adam Smith expresses it, every saving and accumulating man is like the founder of an almshouse for all future generations. He is indeed more; for he lays the foundation for the support of labour for all generations to come, indeed forever, unless the beneficent effect of accumulation is arrested by a wasteful process, that is, by some unproductive consumption.[1]

If a merchant uses his means to transport commodities desired and valued in America from a place where they are abundant and

[1] Every sound work on Political Economy shows this fact conclusively. There is perhaps none which does so more plainly and cogently than Mr. Say's Political Economy.

cheap, and offers in exchange, to the producer of the commodities a higher value than the latter could obtain where they are not desired, as in America; and if the same merchant offers these desired commodities, even after he has added to their price the amount of value which he means to make as his profit, for a lower price to the American consumer than that at which they possibly could have been obtained without the merchant's assistance, does he not benefit both the consumer and producer? Whom has he despoiled? His profit is strictly of his own creation, and, while he benefits both producer and consumer, he bestows the additional benefit upon his community of creating and accumulating new values, namely, in his own profits. These values did not exist before, and henceforth form part of the national capital to support labour, to serve in the production of further new values, to support still more labour, to feed more mouths, clothe more bodies, and warm more homes; in brief, to extend comfort and civilization.

Is there not equal and still greater inequality in all other spheres than in the possession of property? The inequality of fortunes is great indeed; but, however great, it is not so surprising and vast as that which subsists between a sage and a fool; a healthy and a sickly person; a gifted and a dull intellect; a naturally gentle and harmonious soul, and an impetuous, passionate heart; a man whose parents had befriended themselves with many people far and wide, or whose father had acquired reputation and distinction, and one born of obscure parents, left at an early age as a friendless orphan.

We all know that a natural suavity and gentleness, accompanied by an engaging countenance and pleasing form, frequently become the key to unlock the first gates of success, which may remain closed to another of equal worth and talent, but unendowed with these means of first introduction? And may not all this happen without any fault or injustice being chargeable to any one? Should we attempt to level all these diversities too? Should we com-

plain of the injustice which elevates a Bacon, a Shakspeare, or a Chatham in intellect, genius, and energy so high above uncounted millions of their fellow-creatures, that their eminent minds must have enjoyed mental activities of which we, but poorly gifted, can have no conception? And is, indeed, this inequality not far more important and surprising than that of property?

Can the Inequality of Property be eradicated?

Is it in our power to remedy the inequality of property of which we have just spoken, if it were desirable to do so? and would not those remedies which have been proposed entail still greater misery? Many remarks in the course of the present inquiry have already, in a great measure, answered these questions.

One of the chief evils complained of in regard to the inequality of property and consequent difference of condition among men is, I believe, the unduly small share which the workman has in the ultimate profits derived

from the product. While the owner of the factory makes thousands a year, the actual weaver, or the person who attends the spinning machines, receives so small a share that, in some countries, he can but barely exist upon it. The means which have been proposed to remedy this evil are associations, in which the net profit shall be equally divided among all persons, or in which all profits shall be held as common property; in short, the abolition of wages and the abolition of individual inheritance. Temporary redress has been sought for in associations to enforce higher wages.[1]

Although certain numbers of men may unite in associations holding certain kinds of property in common, and throw their profits into one common fund, they will still hold their property, with reference to others, as private property, and between these different associations there must necessarily exist the same inequality of property as now exists among individuals. Even within

1 These associations have been usually called Trades' Unions.

themselves the associations can never wholly extinguish the idea of private property in apparel and other articles, if they are founded upon those religious views which enjoin celibacy upon the members, and can only check for a time the natural desire of man to acquire property of his own if they allow the existence of families. Should they attempt to extinguish the knowledge of parentage, as Plato proposes in his Republic for one class of his citizens, they still farther encroach upon the immutable laws of nature, and create still greater moral and physical disorder. But none of these societies, which abolish private property, and with it the liberty of bequest, can exist for any great length of time unless they allow constant egress, and in that case they might indeed be imagined to be of some benefit under very peculiar circumstances, but only as exceptions, and for entirely different reasons than the general abolition of private property or of the inequality of conditions.

Man must ever return to his nature, and

he promotes general progress and civilization only in so far as he conscientiously develops that nature which for wise ends his Maker has given him. Man is conscious that what he is, he is individually.

Destined as he is for society, he is still conscious that no one can be good or bad, healthy or sick, happy or unhappy, cold or warm, for another. He naturally flies from a state of things in which his individuality would be lost; a situation in whose forced or dull uniformity he would be only distinguished from others, as the prisoner is in a penitentiary—by a number; in which his own gifts, his own exertions, in short, all that may be called his peculiar individuality, could not distinctly imprint itself on his actions and their effects, and in which he should be deprived of his natural and invaluable right to call the product of his own exertions, his own property; to accumulate as he chooses; to exchange it for what he desires, and to dispose of it for the benefit of his individual family, which bears his name, has been reared by himself, and for

whom he collected it with toil and trouble. Man yearns to see his individuality represented and reflected in the effects of his exertions—in property. It is as inextinguishable a principle as his own individuality, and has that quality in common with all original laws in our nature, which are absolutely necessary for man's physical or intellectual progress or existence, that it delights man in being acted out, and distresses him at being repressed. Man justly, and not wickedly, rejoices in honestly saving values and accumulating property. It is a pleasure as natural and as pure as the physical pleasure of drinking when we are thirsty, of resting when we are tired, or the mental delight of exercising our peculiar gifts and talents when we find our proper sphere of action.

Societies which strive to extinguish private property must necessarily extinguish, in the same degree, great individual exertion, and, consequently, retard general production. How long and in how extended a sphere would that enthusiasm last which might prompt a man for a time to labour in-

dustriously for the indolent? What a source of jealousy and discontent would this alone form! what an inducement to the indolent to relax still more! Those who see great riches on the one hand, but oppressive poverty, on the other, and propose the remedy of an equalization of property, forget that the process itself would destroy countless values, and, consequently, the support of so many of the poor as were supported by them. If, on the other hand, a system were devised by which repeated and continued equalization of property should be forced upon men, the destruction of property and prevention of its accumulation would be made permanent. Thus capital, the only support of labour, would be destroyed, and infinitely more misery must ensue than now exists.

If a higher moral state is expected from associations acknowledging no private property, because it is supposed that the main source of jealousy is taken away, we have only to examine the actual state of monasteries or other similar societies. Those

little communities are well known to be full of petty jealousies and heart-burnings. The nature of man does not improve by being cramped and counteracted.

If, however, the system of wages, as it has been erroneously called—for we might as well speak of the system of prices, and its abolition—if wages could be abolished in any other way except by associations with common property,[1] the immediate effect must be to reduce man to the barbarous state when producer and capitalist are the same, with which he begins the career of civilization, and in which production is necessarily very dear, because the cheapening process of producing on a large scale cannot take place. Accumulation of capital would be much impeded, and the support of mankind fail; indeed, capital could not ac-

[1] It is difficult, however, as I stated before, to see how the many associations composing a nation can help standing in a similar relation, in which now the individuals stand, exchanging labour or products. Or shall we imagine a whole nation turned into one society of this sort? We can scarcely depict to our mind the barbarity, wretchedness, and dulness of such a nation in sufficiently strong colours.

cumulate; or, if it should do so, of what use would it be? Labour could not be procured for it, because we argue under the supposition that wages are abolished.

Wages, it is maintained, are too low. If by this assertion it be meant that in some countries honest exertion is insufficient to support a man, it is unfortunately true; and everything that a wise government or active charity could devise to better such a state ought to be done. But the measures which ought to be resorted to are far different from those which imply a change of the nature of things, which is, that in the great exchange of mankind, things, services, labour, capital, talent, skill, learning, utility, or enjoyment, obtain the price which, in all the combination of circumstances, they are considered worth; that is to say, people are willing to exchange for them values of their own which they consider equivalents; and all measures which attempt to abolish this first principle, that the price is regulated by the desirableness of the thing offered, in the free exchange of mankind, can only increase the evil tenfold.

Some writers actually express themselves as though mere physical labour[1] were the only thing that ought to have value; as though capital could be dispensed with in production, and, if not, as if it should receive no share of the profits. But what is this share? That is wholly regulated by its desirableness; if there be much capital and little labour in the market, capital will receive a small share in the profits of the product, and vice versa; but any attempt to force up the value of the one and depress the other must create ruin and mischief. Wages are no more an invention than property itself. They are the natural and necessary effect of the state of things—of the relation of man to the things around him.

Neither can any real and lasting good be effected by associations whose object is to enforce, by combination, wages higher than the natural price of labour, which is the effect

[1] I do not pretend to understand these writers, who claim such high estimation for mere physical labour. Man's labour is almost always guided by his judgment; if not, we strive to substitute animal power or machines. If human labour is still continued, it stands on a par with animal power.

of demand and supply offered in the market, or exchange. If the members of a Trades' Union succeed in raising wages, the employer either continues to manufacture or not. If not, of course the means of support of labour are destroyed; if he does, without sufficient remuneration for his capital, he will soon remove it, and employ it in some other way. In this case the workmen of course lose their support, and society at large loses, because a loss is necessarily incurred at each violent change of investment or of productive channel. Should the employer raise the price of the product according to the rise of wages, others will undersell him, if not in his own country, certainly in foreign parts. Indeed, strikes of Trades' Unions are very apt to drive whole branches of industry into foreign regions, and always drive capital, that is, the support of labour, from the places where they happen.

In the mean time, the destruction which they cause by the interference with production, and by the useless consumption of val-

ues which the workmen were able to save at previous periods, is frightful. Mr. Dupin, a distinguished writer who has been mentioned before, lately stated that, during a strike of the Paris workmen in the autumn of the year 1840, thirteen millions of francs were drawn from the Savings' Bank at Paris. Here the industrious workmen had deposited their saved values; they received interest for it, while they earned additional values so long as they worked. They stopped working, and were obliged to consume what they had saved. Whether they did this, or should have continued to work, and have thrown all they had saved into the River Seine, amounts precisely to the same. They, and, with them, mankind, are thirteen millions of francs less wealthy. This sum exists no longer, to be used productively, to support labour, and to create new demands by offering for exchange the products which would have been the result of these millions.

A calculation was made at the time of the trial of the Glasgow cotton-spinners in 1838, by Mr. Tait. He found that the loss of the workmen, exclusive of the loss by the em-

ployers of profits, interest on capital, and diversion of trade, was, during a strike of seventeen weeks, two hundred and forty-five thousand dollars.[1]

When men speak against private property, it is easy to detect that many have in their minds some few princely fortunes, some ideas of vast riches; but they do not remember that the whole subject of property is of infinitely greater importance to the vast class of small property holders, and the equally vast one composed of those

---

[1] Torrens, on Wages and Combination, treats of the necessary effects of the latter. The injurious effects upon morals by Trades' Unions have been discussed in the Political Ethics. Only since the whole of these tracts were written has their author become acquainted with the Political Economy, its Objects, Uses, and Principles, by A. Potter, New-York, 1840. The Supplementary Chapter of this work contains an essay on the Condition of Labouring Men in the United States, in which an inquiry into the character and necessary effects of Trades' Unions is to be found, much the best, so far as my knowledge extends, of all writings which treat of this subject with reference to the United States. It is brief, lucid, and replete with important facts. Remarks on Unions of Trades, of interest with reference to their history, may be found in S. Wade's History of the Middle and Working Classes, London, 1833, chap. x

members of society who do not possess much enduring property, but acquire and consume property daily or weekly. If we declare a community of property of whatever sort, we must sensibly affect and fetter the previous freedom of acquiring it whether this be done to save it or to consume the whole again; in short, we must affect the invaluable right of every free man to exchange his labour for what he finds most advisable, and seriously cripple the creation of that which can be offered in exchange for human exertion, and consequently support it.

When we reflect upon the fact that a vast majority of all law-cases arise out of disputes about Mine and Thine, we might, if sufficiently hasty, conclude that an abolition of this source of contest would be the greatest harbinger of peace to mankind. The fact, however, would be far different. Only when men have acquired private and distinct property in the soil, they unite into closer and more peaceful societies, soften in manners, and then only grow up the more

distinct governments, which form one of the indispensable means of civilization. However frequent the disputes about property may be in populous communities, it is nevertheless the very tie of society.

Private property, and the unshackled right of acquiring it, is, all appearances at a hasty glance to the contrary, nevertheless the nourisher of man and the cement of society; the incentive of individual industry, and broad foundation of general prosperity; it is the basis of social advancement, the support of knowledge, and a mirror in which man beholds his rights; it is the promoter of manly consciousness and individual independence, and a firm foundation-stone of the fabric of national liberty. The security of its acquisition, and, when acquired, of its transmission to other generations; the consciousness of holding property by an inherent natural right, and not simply at the mercy of the ruler—it is these that constitute the striking difference between man as he appears in Asia, and the Western man. It is this prominent feature of individual property

independent of government, and, however often disturbed upon erroneous reasons or for tyrannical purposes, yet far more often acknowledged and insisted upon by theory, fact, charter, or rebellion, which forms one of the broadest fundamental differences of European and Asiatic history; which has invariably shown itself clearer at the periods favourable to freedom, and has been proportionately obscured when despotism wielded its fearful sway, under whatever form or name it happened to make its appearance.

With the security of individual property must general morality, manliness, and resolute activity stand and flourish, or with its extinction be changed into slavishness, which never fails to crouch before the despot, be he one or many, that disposes of the tenure of property. It is this feature and peculiarity of private property which gives it so great an importance in the whole history of Europe, and so little in that of Asia, while even the Asiatic himself acknowledges the Western man more liberal in matters of value than the Eastern.

VII.

Concluding Remarks.

The many natural advantages of the United States; the abundance of fertile land, with a thin population, unexposed to the evils and dangers with which crowded countries are rife; the high political privileges enjoyed by every one, and the unimpeded pursuit of any trade or profession open to every person; the descent of the people from the most energetic and enlightened nations of the earth; the distance of America from those countries with which, by a common civilization, it is nevertheless united, and its thus being able politically to keep aloof from many diplomatic influences and difficulties which nations situated in closer vicinity cannot avoid—these, and many other circumstances, which unitedly were, at no previous period, enjoyed by any other nation, or, at least, in the same de-

gree, would make it probable that general contentment, if it might be expected anywhere where mortals dwell, should be met with in this vast and beneficently endowed dominion of ours.

But it is not so. A fretful uneasiness, a discontent unable calmly to enjoy these acknowledged blessings, and leading to a desire of changing real or supposed grievances by rash and extravagant schemes of sudden innovation, and not by gradual, and, therefore, sure improvements, pervade many large classes of our citizens. Above all, here, as in other countries, many people imagine that almost every ill to which human life is subject is to be extinguished by political legislation, or by some radical and violent change of social organization. Many men here, as elsewhere, seem to be ignorant of the fact that the great aphorism of Bacon regarding man's capacity of acquiring a knowledge of physical nature applies, and with as much force, to his ability of acquiring a sound knowledge of the moral nature of man and of the whole

organization of society. They start, inconsiderately, new theories and hazardous schemes, without patient observation and mature reflection. Here, as elsewhere, imaginary complaints take the place of real ones. Here, as elsewhere, men speak, write, and act as though the world were not yet made, but must now only be rescued by their exertions from a shapeless chaos, and may be fashioned by them, for the first time, into order.

It is not my object to inquire into all the causes, moral, religious, or political, of this uniformity of discontent among men—a subject doubtless of great interest, but of a nature not to be discussed here in any degree adequate to its importance. All that I can propose doing is to offer some remarks on this discontent, as bearing directly on the subject of property and labour. Many of the previous reflections have, indeed, already touched upon several subjects offering themselves under the present head. To these it may not be amiss to add the following.

The free nature of our political institutions requires every member of the community to judge for himself of whatever affects the public welfare; a variety of opinions must be the consequence, for such is the effect of freedom in every sphere. The opinion which many thus form of the importance of their own judgment must necessarily, in numerous cases, be raised above what a correct appreciation would warrant.[1] These are unavoidable evils. No enlightened man who perceives them would on that account prefer the self-abandoning resignation of the Asiatic, inured to despotism, who never looks to his own means of righting himself against public wrongs, and believes he has done enough if he patiently submits, and exclaims "Allah is great!" But it ought not to be forgotten that due contentment, proper resignation, absence of envy and jealousy,

[1] The vote, which gives a positive and practical importance to the opinion of the voter, contributes greatly to enhance his judgment of his own powers; for the vote of all is, as a matter of course, alike; and not a few judge that, if their vote counts as well as that of any other citizen, their opinion is as sound, and their intellect as strong, as that of any other person.

and a resolute endeavour to enjoy the blessings given to us by Providence to the best of our powers, without frittering away our means and imbittering our lives, is true manliness, and shows far greater elevation of soul than perpetual restlessness in striving for unattainable objects, in envying others for their enjoyment of advantages which have been denied us, and in forgetting of how much they are deprived which we, on the other hand, possess in abundance.

Contentment with one's worldly lot is not only a religious virtue, but an important political one; nor is it less necessary for private than for public prosperity. Yet how many are there that daily stir up a spirit of discontent, frequently for no other purpose than to raise their own importance; and, comparatively, how few men look to the many blessings they enjoy, compare them with the grievances they suffer, and draw from the comparison new motives of thankfulness to the Creator of their being? But vanity prospers far more by agitation than by calmness.

Many well-disposed as well as designing men have much increased this want of contentment, by diffusing strained ideas of the destiny of man, and by representing labour at one time as degrading to him, or vastly interfering with this high-wrought destiny; at others, by representing the so-called labouring classes as more important than all others; by magnifying the disadvantages to which comparative poverty exposes them; and again, by arrogating for them alone the distinction of hard-working men, as though the great judgment that we shall eat our bread in the sweat of our brow, pronounced over all men, applied in the present age to them alone.

We cannot abrogate social order, or change human nature upon which social order is founded. More men in this world must needs be engaged in working than in contemplating; and he that labours physically during ten or twelve hours of the day, cannot, of course, be as fit for reflection as the man who follows consecutively, and, therefore, with increasing intensity of

thought, his intellectual pursuits. A Herschel[1] may indeed play his violin for his support to a late hour of the night, and still, after this labour, retire to his great astronomical task; a Spinosa may obtain his sustenance by grinding optical glasses, and yet pursue his philosophical meditations; a Franklin or a Roscoe may be engaged in practical pursuits, and yet be distinguished as a philosopher or an historian; yet it requires a Herschel, Spinosa, Franklin, or Roscoe to be able to combine both, and every future Herschel or Spinosa will break through the same difficulties.

It would, indeed, have been a great misfortune for mankind had Newton been forced by circumstances to work in some mechanical trade so assiduously for his support that no time had remained for study; but it would be far worse if ever it should come to pass that the majority of farmers or mechanics should think they did not ful-

[1] Sir William Herschel had already completed many telescopes, and even a twenty-feet reflector, before he withdrew from his profession as a musician.

fil their destiny if they did not strive to become Newtons. Universal wretchedness would be the unavoidable consequence of so overwrought a state of things. There is a fair exchange in this as in all other spheres. If some individuals are freed, not from hard labour, indeed, but from physical labour, they offer the results of their work, be it in the shape of new truths and discoveries, of increased exchange by the pursuit of commerce, as teachers, or in whatever other form, to mankind in return, who greatly profit thereby. They could not do so were all obliged to exert themselves in the same manner. And is there not also a compensation? Does the workman not enjoy immunities vainly longed for by others?

But it is a serious error to suppose that those who constitute the labouring classes are, because they must labour, either degraded or greatly injured. There are various spheres of human activity, many superior to others; but shall a professor, engaged in the honourable pursuit of instructing young

men in a college, consider himself degraded because he must acknowledge that the spheres of action in which a leader of the House of Commons, or a commanding general who rescues his country, moves, are infinitely superior to his ?

No one can deny that there are countries in which whole and numerous classes are depressed into wretchedness, and even into barbarity, in the midst of surrounding civilization and refinement; but it is poverty which overwhelms, not labour which degrades or brutalizes them. And where are these classes of depressed labouring men to be found in the United States, the country where every species of labour meets with its fair reward, if ever it did in any land — at least every exertion of mechanical skill ? The complaint that the workman receives always the smallest share of profit is unfounded in the United States ;[1] and if hap-

[1] The complaint is singularly unfounded in a country where very many workmen earn from ten to fifteen dollars a week, and eight dollars are the wages for common skill in common trades, and where it very frequently occurs that jour

piness among men be possible, it has ever appeared to me that the American working man, but especially the American farmer, has as many elements of contentment around him as are vouchsafed to man. Plenty of fertile and cheap land, not only for himself, but for his children also; with excellent implements, fine stock, and a great variety of seed and fruit; with fair prices and cheap educts for his produce; with liberty and high political privileges, together with consideration in society; with every possible career open before his children; descended of a good race, and surrounded by intelligent neighbours, and with a religion which comforts and strengthens—what element of contentment is there wanting?

Labour honours and does not degrade; every honest and industrious man feels it in the independence of his mind, whatever sentimental orators may tell him to the con-

neymen abstain from setting up for themselves, although unrestricted in all their movements, because they find it to be to their advantage to earn the high wages without incurring the risk of the master workman, who must advance capital, pay rent, &c.

trary. A sound political community is not unaptly depicted in our forests. There, too, is the greatest variety, from the overshadowing, broad oak and the towering tulip-tree, to the smallest blade and floweret, each striving upwards to the light of the sun, and, in doing so, developing its own peculiar individuality and destiny; no one interfering with the other, but all serving and aiding all; none degraded by the other, but all important in their own way, and forming, in their union only, that forest, without which none singly could exist or be what it is.

Farmers and mechanics have been termed by way of excellence, or at times they have arrogated to themselves the name of, hard-working classes. Does the term Hard Work refer, in this meaning, to the time daily engaged in work, or the effect it has on the body, or the remuneration it receives? There are very few men in the operative classes in the United States, if any, who work as hard as many scholars do. The farmer, indeed, retires from the field at sunset with a fatigued, yet also with

a healthy body; he enjoys his meal and a sound rest, while the scholar has yet many hours of more exhausting labour before him ere he retires to a scanty sleep, perhaps many times interrupted by an indifferent state of health, the effect of his laborious life. Are physicians, lawyers, ministers, professors, naturalists, not hard-working men? Who of all the working classes has worked and physically toiled as hard as a Humboldt?

We see, indeed, some individuals of these classes enjoying wealth, and perhaps leisure; but their number is very small compared to the tailors, carpenters, shoemakers, or farmers who have obtained wealth, and either wholly retired from business, or continue it by a general direction only, in ease and comfort.

Very few scholars have arrived, in spite of incessant, hard, trying, and most useful labour, to wealth, or even a competency. Some perhaps object that it is their own choice. So it is, but not more so than the choice of a trade or handicraft. Theoreti-

cally, we are all free in the choice of our pursuits where no castes exist; but there are circumstances in the life of every man which more or less determine his career, and which prevent many possible things from being feasible. Yet even though the scholar were perfectly free to engage suddenly in a pursuit far more promising in a worldly way, but should not enter upon it because his mind, the bent of his whole inward man, will not permit it, is he on this account a less hard-working man, and does he not follow his high duty for the benefit of his fellow-men in obeying the call which his Creator makes upon him by the endowments with which he has gifted him? May it not be maintained, with perfect truth, that many merchants work as hard as farmers? Or will it be said that the word Hard applies to physical labour only, and not to intellectual or mixed labour, which, in fact, try the body more?

Among the complaints which have been proffered by some fanciful writers in the name of the working-classes, even the soil-

ing work and "nastiness of workshops" to which they are doomed have been held up as a proof of their degradation. The place where the farmer works, under God's own canopy, the workshop of the carpenter and many other mechanics, are healthier and more inviting than most lawyers' offices or scholars' studies; and if the dyer shall become ashamed of hands tinged with indigo, and the scholar of the inkspot on his forefinger or the dust of his books, we may perhaps expect the farmer to quarrel with nature, that the sun which ripens his corn makes also his body perspire.

The term Working Class has been most arbitrarily used; even the superintendent of a number of factory-girls working in one room, shopmen, and farmers who own soil, have of late been excluded, leaving those only that work physically, without the use of the mind, or, in other words, for whose work animal or mechanical power might be substituted. This indeed is degrading; but where is the line to be drawn? The factory-girl has to use her mind in her work,

and why is she not excluded? As the scholar chiefly uses his mind, yet also works physically with his hands, so does the canal-digger chiefly work with the body, yet also with his intellect, and the line between the two cannot be distinctly drawn.

If the test shall be whether an individual possesses any capital or not; in other words, whether he uses any property of his own in working his product or not, we have not gained a more accurate distinction; for no work whatever is done by the free labourer in civilized countries towards which he does not bring some capital, that is, some values, without which, under existing circumstances, he cannot begin his work, or which, if he himself is really deprived of them, must be advanced by the capitalist; and to draw a distinct line fit to divide society into two antagonistic parts, between the poorest woodsman, whose only capital consists in his clothes, a frying-pan, and an axe and knife, on the one hand, and the richest manufacturer of Leeds on the other, is very hard.

It is surprising to see how easily every agitation or presumptuous theory started in foreign parts is introduced into this country. Crowded by population, and heavily taxed as England is; deeply wretched as a part of her people are, especially in the manufacturing districts, it is no wonder that many just or unfounded complaints should be made. France, having passed through a revolution which, in cutting off the whole previous state of things, and uprooting nearly all social and political relations, is not equalled by any other in history for its numberless new schemes, more or less bold, rash, judicious, or arrogant. This too is natural, for even the lapse of half a century has not sufficed to settle France after such an overthrow of things—an overthrow prepared by centuries of wretched government.

But, when these conceptions of individuals are forthwith introduced, or their complaints are reiterated here, where the circumstances to which they apply, or out of which they have arisen, do not exist, it becomes a mere handle for mischief. Never before has a

country existed in which industry, honesty, and frugality were so sure of success in acquiring a fair livelihood and an honourable standing in the community as in our own. We are not exempt from evils of our own, and grave evils too. Flatterers who wish to make us believe the contrary are as wrong as those that would make our farmer or mechanic believe that he was worse off than the slave; but the truth that industry, honesty, and frugality give a support and independence is certain, and one of great import.

Still, though it were not so, no truth is more firmly established than that the equivalent given for labour or wages depends, in the natural course of things, upon demand and supply, upon capital productively employed by that labour. There is no such thing as forcing wages up by legislation; and, though hundreds and thousands should die, legislation cannot raise wages by law. Legislation may remove impediments created by previous legislation, by which labour was prevented from obtaining the equiva-

lent to which, in the natural and unimpeded course, it was entitled; but no legislation can possibly raise them by maximum or minimum prices. It has been tried full often enough, and has always ended in increasing misery. Prices cannot be prescribed, without infinite injury to the producer and consumer, either by government or combination.

On the contrary, as capital must ever seek its best employment, which is there where profit and security are combined, every forced action makes it flow out of the country, and therefore withdraws so much from the fund which must sustain labour, and thus increases the evil. Nor can any human power, not even death impending upon the exportation of capital, prevent it.

Maximum and minimum prices were decreed in France during the Reign of Terror, and death inflicted for taking more or less; death was the penalty affixed in Spain to the exportation of the precious metals—but all in vain. Russia, with the threat of banishment in Siberia, and an extensive

and watchful police, did not succeed in preventing the exportation of gold whenever it became a highly desirable article in England, during the wars of Napoleon. Nor can any combination among workmen permanently raise wages. On the contrary, they interfere with the free production of capital, and make that already existing flow to other places of employment.[1] Nothing can permanently raise wages with those nations who belong to the great civilized family of men but a greater abundance of values to be offered for them, and values cannot be legislated into existence. They must be produced. New sources of industry must be opened; communications be accelerated; free and safe exchange of products must be promoted; habits of sobriety and thriftiness, of saving and reproduction, knowledge and education, must be diffused; emigration must be favoured; the processes of production must be shortened and be made more saving; substances, until now

[1] The reader is again referred to Torrens on Wages and Combination, and Potter on Political Economy.

refuse, must be turned to account; restrictions must be removed; political morality must be increased; riots and all other disturbances, as well as idleness, must be diminished; a higher sense of duty in sacredly fulfilling our obligations must be established throughout the land: it is by such, and only such means, that wages can be raised, or, what amounts to the same thing, that the prices of commodities can be lowered. All else can only enhance the price of things in comparison to the amount of labour, the wages for which are equal to that price, and must affect the working classes most, as they are the great consumers. No law interfering with the accumulation of property, or cutting off its freely-chosen transference, can remedy the evil, or even become a palliative. It is the people at large, the working classes, who would needs suffer first and most bitterly were ever the attempt made to put such superficially conceived, and yet, in their effect, cruel schemes into practice.

Neither do we want legislative acts to prevent the accumulation of riches in single hands. Riches do not accumulate to a dangerous amount, in the present highly industrious age, for want of legislation. The natural and unfailing tendency is towards a constant distribution and diffusion of wealth. It is by legislation, by positive enactments only, that this natural course can be arrested, and that riches can be made to accumulate in a degree so disproportionate to the general standard of wealth, that they become dangerous to liberty and public welfare.

Acknowledging the existence of this danger, when unwise positive laws intercept the natural and inherent diffusion of wealth, it seems, nevertheless, that it is greatly overrated by many modern writers, especially when their remarks apply to the riches which accumulate in the hands of an individual during his lifetime by the natural effects of industry, judgment, and good luck, or in the hands of his successors by our present laws of individual inheritance.

Riches are considered incompatible with

liberty. These were the views of the ancients, and many modern writers copy what they said. The ancients were right in taking this view, but, before we reiterate their remarks, we must inquire whether our state of things is the same with theirs, or whether there be not an essential difference between ancient and modern liberty, between the free city-states of antiquity and the constitutional liberty of modern national or enlarged states with extensive territories, over which equal comprehensive guarantees of individual freedom extend.

The great problem of ancient political philosophers was the security of the continuance of the state, and every consideration of the individual was merged in this great problem. We, in modern times, feel so safe on this score, that it has become almost a secondary consideration. With us the rights and protection of the individual stand foremost. The ancient states were founded upon absolutism; that is to say, power, wherever it dwelt, was considered tantamount; and the more democratic the states

became, the more unlimited was this power, and the more decidedly came the individual to be considered merely as a component part of the state, in which alone he found his whole meaning and existence.

The modern citizen is considered to be a member of his political society for the purpose of finding his individual rights, indispensable to the fulfilment of his career as Man, the more firmly guaranteed. The essence of ancient liberty consisted in the equal participation of every one in the government; no matter how this was effected, even though it should be by lot; or what this government decreed, even if it interfered with the most private concerns, required the sacrifice of the institution of the family, or demanded the loss of what we consider the most invaluable personal rights. Modern liberty consists essentially in guarantees of the individual rights of man, and, consequently, in checks upon power, and the protection of the minority against aggressions by the majority. Hence our constitutions, binding even overwhelming majori-

ties. The ancients felt themselves men, because they were citizens; we are citizens, because we know that without political societies we cannot obtain the great objects of man.

Under these circumstances, it was natural that the ancients should have known nothing of Opposition, such as this vital element of modern liberty and safest of all measures to unite liberty with peace, exists in our constitutional states.[1] All opposition, nay, all displeasure with public measures, even almost all dissent, were viewed, therefore, as factious, and seldom failed really to become so in cases of sufficient importance.

Riches were then really dangerous; and democratic absolutism naturally requires the levelling principle applied to property, which is necessary for regal absolutism. Absolutism, whether popular or monarchical, in-

[1] I have given my views on the important difference between ancient and modern liberty at full length towards the conclusion of the first volume of my Political Ethics, and those on what I feel tempted to call the great institution of the Opposition, in the chapter relating to that subject in the same work.

stinctively takes umbrage at any influence or power out of its own sphere of action; and, as the ancients decreed the contribution of large sums because a citizen was too wealthy, so do we find the Eastern systems of despotism, to this day, engaged in what they hold to be one of the highest problems of statesmanship—the absorption of large private fortunes. They are thus employed in a continual process of annihilating or preventing the accumulation of values, and, therefore, of destroying one of the great means of spreading civilization, and the establishment of firmer security and public peace.[1]

[1] The jealousy of the Eastern governments leads not only to a frequent transfer of property from the private individual to the monarch (which process alone induces a considerable destruction of values), but actually to an intentional waste, so that the possessors shall be reduced to a degree of wealth more compatible with the safety of the government. The feudal princes of Japan are bound to appear periodically at Yedo with a retinue of many thousands, said to amount at times even to ten and twenty thousand, for the purpose of saddling them with great expense. The same object is at other times obtained by the ziogoon (or nominal hereditary vicegerent of the mikado, but virtual sovereign) inviting himself, in Queen Elizabeth's style, to the abode of some feudal lord. This ne-

Our fair and noble constitutional liberty is as much above the jealous fear of the

---

cessary waste of property in Asia, when once acquired, and the consequent prevention of production and accumulation, owing to the danger of possessing wealth, form, in my opinion, one of the causes which have produced a phenomenon in history of the highest importance, namely, that Asia, with the immense hoarding of treasures, has accumulated so little wealth compared with Europe, where there is no hoarding, yet great accumulation of wealth, although so much younger in civilization.

Adam Smith, as well as Say, treat of the causes of rapidly-ries compared with its accumulation in the Middle Ages. The increased wealth in Europe and America during the last centu-inquiry may be extended, for the phenomenon fully deserves it. Why are the Europeans and their descendants so much wealthier, or, in other words, why have they succeeded in accumulating values to an amount infinitely greater than that which exists in Asia? Among the various causes, the following may be the most important: The one just mentioned, namely, the natural jealousy of despotism, the insecurity of property, and the general prevalence of mere force. This naturally induces people to hoard those values which men have succeeded in producing in spite of the insecure state of things. We are struck, in reading the English works on the campaigns in India, for instance, with the enormous treasures found in the residences of the princes. All these hoarded treasures were unproductive values while thus hoarded. Private individuals hoard likewise, in order to hide their wealth; but no treasure can be hidden without being unproductive. Then, the princely pageantry so peculiar to Asia; the costli-

riches which an individual may amass, in a political point of view, as it is above the fear of seeing arms in the hands of every citizen. We know that our governments

ness of Budhuism and Brahmaism ; the great number of persons withdrawn by them from production, without instructing or essentially meliorating men; the many richly-endowed temples, with their costly feeding of elephants, &c., make these modes of worship, at least, very expensive, although Mohammedanism is probably one of the least so of the wide-spread religions. And, lastly, the pursuit of knowledge being fettered by their religious dogmas, as was mentioned in a previous note. It seems that all these circumstances must have powerfully cooperated to prevent the production of values, or the dissipation of them after they had been produced. Civilization, as was observed in a former passage, requires a great amount of value. To give a single instance : Mr. Hoffmann, in his Statistics of Prussia, shows, upon a very moderate computation, that the law which requires all children of a certain age in the kingdom of Prussia to visit the common schools, prevents, for the time, the production of about ten millions of Prussian dollars annually. No doubt, the kingdom amply gains by this sacrifice, because, the better a nation is educated, the more productively will the trades be pursued ; knowledge is advantageous even in a pecuniary way ; and the more knowledge is diffused in a country, the more firmly secured is its peace; but peace, that is, security, enhances the values of land and everything else. This is, however, the very thing which it was intended to prove. Civilization, which is highly productive in its character, requires a great amount of value to be first attained, and, when attained, to be promoted.

are safer, although our Astors and Girards may command many millions of dollars, than ancient states, with all their jealousy of riches, just as we know our President to be more safely lodged at the White House, without a single sentinel, than the Eastern despots, who, from anxious fear to trust their safety to armed men, form their inner palace-guards of well-accoutred females,[1] because among them the ruler need not fear conspiracies.

Our newspapers; our debates and parliamentary law; our industry and rapid exchange, domestic as well as foreign; our common law, a body of rules of action grown up spontaneously, and independently of direct legislative or executive action; the vastness of our territories, and the large numbers of subjects to one and the same state; our sciences, our arts, and the diffusion of knowledge; our revered representative principle, which is of a tempering and be-

[1] To this it has actually come in Further Asia, where these body-guards, consisting of armed viragoes, are frequently met with.

calming character; our art of printing, and many other elements constituting our social and political life, are so many checks upon the political influence of riches in the hands of individuals. Indeed, can this influence be traced? Are our richest men politically the most influential? No one will seriously assert it.

Riches, unsupported by anything else, will be found to be rather in the way of political influence than otherwise. Such is the result of my observation. In conjunction, however, with other advantages, the possession of large property will undoubtedly add weight. But so will a thousand other advantages, if properly supported by talent and character. Wealth stands on a par with a winning countenance, with a fine voice or fluent eloquence, and with the fact of one's being the son of a cherished and widely-known citizen, of accomplishments and a liberal education. All these may aid a man, if properly supported by sterling worth, but he would greatly deceive himself were he to rely on the one or the other alone.

ADDENDUM.

The author has stated, in the note appended to page 218, that the sacrifice brought by the Prussian people to their general elementary school system amounts annually to eight millions of Prussian dollars. He wrote from memory; and, finding now that his statement is not correct, and that the case is much stronger, he is anxious to give the facts as they actually are.

Mr. Hoffmann, director of the general Statistical Board of Prussia, states, in his work, the Population of the Prussian Monarchy, Berlin, 1839, that there are in that kingdom 2,830,328 children of both sexes, between eight and fourteen years of age, or, as they are called, "school-bound" (schulpflichtige) children. The expense actually incurred by the state for the support of the elementary schools amounts to seven millions of Prussian dollars. These children,

however, might already produce values, and contribute their share to the bulk of national wealth, instead of which they merely consume, and produce nothing while going to school. If the value which each child might produce per day is put down at the very low valuation of one silver groschen, the production of seventy-one millions of Prussian dollars annually is thus prevented by the elementary school system of Prussia.

Mr. Hoffmann adds to this statement the following judicious remark: "A people, therefore, which understands how to employ its time productively, actually makes a sacrifice, the magnitude of which is rarely estimated to its full amount, if it withdraws the children from labour to send them to school; and this fact explains why nations so rich and civilized as the English and French, find it, nevertheless, so difficult to make a comprehensive elementary school system general. The more industry advances, and the more productive it becomes, the greater becomes also this sacrifice, which, it is true, is abundantly repaid by the ef-

fects of a judicious general school system; still, it requires a great amount of general wealth to be capable of making the sacrifice."

The reader will remember the remarks which have been made in this work respecting the great amount of wealth requisite for civilization, and the reciprocal effect which wealth and civilization exercise upon one another. School systems, like religion with her churches, seminaries, ministers, and rest from labour on Sundays, or government with its paid officers, courts of law, armies, and navies, require much wealth; for as to their first direct operation, they only consume, or prevent production; they cannot produce. But, inasmuch as they promote peace, knowledge, light, rectitude, honour, safety, and civilization in general, they, on the one hand, save incalculable amounts of value, which otherwise must have been wasted, and, on the other hand, aid most powerfully the productive energies of a nation.

THE END.

This book is DUE on the last
date stamped below

APR 1 1960

RECD LD-URL

JUN 17 1991

LIFORNI

2m–10,'48(B1040)470

LOS ANGELES
LIBRARY

University of California, Los Angeles
L 006 345 792 3

UC SOUTHERN REGIONAL LIBRARY FACILITY
AA 001 168 611 0

HB
701
L62e